NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 1. DEPARTMENT OF HEALTH SERVICES ADMINISTRATION

[R06-351]

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-1-201	Amend
R9-1-203	Amend
Article 3	Amend
R9-1-301	New Section
R9-1-302	New Section
R9-1-303	New Section
R9-1-311	Repeal
R9-1-312	Repeal

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 36-136(A)(7) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-104(9), 36-105, 36-107, 36-136(H)(11), 36-324, 36-342, 36-351, and 41-1033

3. The effective date of the rules:

November 11, 2006

4. A list of all previous notices appearing in the *Register* addressing the final rule:

Notice of Rulemaking Docket Opening: 11 A.A.R. 2448, July 1, 2005

Notice of Proposed Rulemaking: 12 A.A.R. 1065, April 7, 2006

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
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6. An explanation of the rule, including the agency's reason for initiating the rule:

Former R9-1-203, R9-1-311, and R9-1-312, were substantially revised effective July 15, 2002. On August 3, 2004, the Governor's Regulatory Review Council approved the Department's five-year-review report of 9 A.A.C. 1, Articles 1 through 4, which included R9-1-203, R9-1-311, and R9-1-312. This rulemaking makes the processes for requesting the Department to make, amend, or repeal a rule or to review a Department practice or substantive policy statement and for the Department's disclosure of records containing individuals' health information more clear, concise, and understandable.

A.R.S. § 41-1033 authorizes a person to petition an agency to request the making of a final rule or the review of an existing agency practice or substantive policy statement that the petitioner alleges to be a rule. The statute authorizes an agency to prescribe the petition's manner and form. The Department established in R9-1-203 the requirements for a petition for rulemaking or review of a practice or policy. The Department amended R9-1-203 according to the 2004 five-year-review report for consistency with the time period in A.R.S. § 41-1033(A). The Department made other changes to improve the rule.

For definitions applicable to 9 A.A.C. 1, Article 2, the Department revised R9-1-201 by adding definitions of terms used in revised R9-1-203. The added definitions include "amendment," "Arizona Administrative Code," "citation," "person," "rulemaking," and "text." The Department deleted the definition of "oral proceeding," because that term is no longer used in 9 A.A.C. 1, Article 2. The Department made other changes to improve R9-1-201.

Former A.A.C. R9-1-311 contained the definitions that pertain to medical record disclosure by a Department employee or volunteer. Former R9-1-312 contained the substantive provisions on medical record disclosure by a Department employee or volunteer. To improve the public's access to the rules, the Department repealed R9-1-311 and R9-1-312 and made new rules at R9-1-301, R9-1-302, and R9-1-303. The Department incorporated into the new rules changes described in the 2004 five-year-review report. The Department incorporated additional changes for consistency with state and federal law and to increase the clarity, conciseness, and understandability of the new rules.

In 2004 and 2005, the legislature amended A.R.S. Title 12, Chapter 13, Article 7.1, Medical Records. Among other things, the legislature added provisions for the confidentiality of payment records related to a patient's health care. To fulfill its statutory duties, the Department creates, obtains, and maintains medical records and payment records, as defined in A.R.S. § 12-2291. Some Department components create, obtain, or maintain health information for purposes of patient diagnosis or treatment (medical records). The Arizona State Hospital, which provides inpatient psychiatric care to the most seriously mentally ill Arizonans pursuant to A.R.S. § 36-202, is such a component. Some Department components create, obtain, or maintain health information related to payment for a patient's health care (payment records). The Division of Behavioral Health Services, which coordinates, plans, administers, regulates, and monitors Arizona's public behavioral health system pursuant to A.R.S. Title 36, Chapters 5 and 34, is such a component. Under new R9-1-302, the Department will disclose medical records and payment records only when certain requirements are met.

To fulfill its statutory duties, the Department also creates, obtains, and maintains public health records. These records contain health information for purposes other than patient diagnosis or treatment or payment for a patient's health care. The purposes of the Department's public health records include public health surveillance, investigation, and intervention; public health statistics; vital records; and health oversight. Many Department components, such as the Office of Health Registries that includes the Cancer Registry and Birth Defects Monitoring Program pursuant to A.R.S. § 36-133, create, obtain, and maintain public health information. New R9-1-303 clarifies that, with the specified exceptions, A.R.S. Title 39, Chapter 1, Article 2, Searches and Copies [of public records], governs the Department's disclosure of public health records. The exceptions are:

- Disclosing public health records in the course of giving information and advice to government agencies and other persons under A.R.S. § 36-104(9).
- Disclosing public health records in the course of giving information, under A.R.S. § 36-105, to "any agency of the United States which is charged with the administration of health services."
- Limiting copies of or access to vital records to eligible persons and government agencies, including the U.S. Public Health Service and the Arizona Department of Economic Security, under A.R.S. § 36-324.
- Prohibiting inspection of vital records by the general public and disclosure or copies of vital records to the general public under A.R.S. § 36-342.
- Submitting registered birth certificates and registered death certificates to the Arizona State Library, Archives and Public Records for access by the general public only after 75 and 50 years, respectively, under A.R.S. §§ 36-351 and 41-1339(D).
- At the direction of the Human Subjects Review Board, disclosing public health records that have not been de-identified when the disclosure is for research and meets the requirements of 45 CFR 164.512(i)(2).

The Department changed the heading of 9 A.A.C. 1, Article 3 to Disclosure of Medical Records, Payment Records, and Public Health Records. In R9-1-301, the Department defined terms used in the Article. The Department also made R9-1-302, Medical Records or Payment Records Disclosure, and R9-1-303, Public Health Records Disclosure.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review, rely on, or not rely on any study for this rulemaking.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

In this economic impact summary, "minimal" means less than $1000, "moderate" means $1000 to $10,000, and "substantial" means more than $10,000.

During at least the last five years, the Department has not received any petitions for Department rulemaking or petitions for review of a Department practice or substantive policy statement. With this rulemaking, the Department made R9-1-201 and R9-1-203 more clear, concise, and understandable and conformed the time period for the Department's response to a petition with the time period in A.R.S. § 41-1033(A). Other than the rulemaking costs, the Department has not incurred any costs associated with R9-1-201 and R9-1-203. The Department believes that, if incurred, such costs would be moderate. Members of the public might incur minimal costs in submitting a petition. The Department and members of the public will benefit from the revision of R9-1-201 and R9-1-203 because these rules are easier to use and understand.

The Department also restructured 9 A.A.C. 1, Article 3 by repealing former R9-1-311 and R9-1-312 and making new records disclosure rules. New R9-1-301 provides definitions of terms used in R9-1-302 and R9-1-303. New R9-1-302 is consistent with the limitations on disclosure of medical records and payment records established in federal and state statutes, rules, and regulations. New R9-1-303 is consistent with A.R.S. Title 39, dealing with public records, and with other applicable statutes.

Numerous personnel, dispersed throughout the Department, create, obtain, or maintain medical records, payment records, or public health records and are involved in the handling of records disclosure requests. The Department-wide costs related to records disclosure requests are substantial. Generally, individuals and entities that request disclosure of Department records incur minimal costs. An individual or entity requesting records disclosure for a commercial purpose might incur greater costs.

For some public health records requests, A.R.S. §§ 39-121.01(D)(1) and 39-121.03(A) authorize a state agency or other public body to include charges for copies and for mailing and, if the public records sought will be used for a commercial purpose, additional charges. As authorized by Arizona public records law, the Department has charged and currently charges 25¢ per page for copies. As finalized by the Department, R9-1-303 includes, except when prohibited by A.R.S. § 39-122, a 25¢ per page charge for copies of public health records disclosed pursuant to a public records request. The Department deleted from final R9-1-303 the proposed inclusion of a charge for the Department's mailing costs.

Both the Department and members of the public will benefit from new records disclosure rules that are easy to use and understand. With the deletion of the proposed charge for the Department's mailing costs, the rules do not impose additional costs on any individuals or entities. The benefits from revising R9-1-201 and R9-1-203 and restructuring 9 A.A.C. 1, Article 3 by repealing former R9-1-311 and R9-1-312 and making new records disclosure rules outweigh the costs.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Department deleted from final R9-1-303 the inclusion of a charge for the Department's costs for mailing copies of public health records disclosed pursuant to a public records request with a noncommercial purpose and for a purpose other than stated in A.R.S. § 39-122(A).

As proposed, R9-1-303(G)(2) provided:

2. If the copies are not for a commercial purpose, the Department shall charge:
   a. Twenty-five cents per page[,] and
   b. If applicable, mailing costs; or

Final R9-1-303(G)(2) provides:

2. If the copies are not for a commercial purpose, the Department shall charge twenty-five cents per page; or

The Department has not imposed and currently does not impose a charge for the Department's mailing costs. With the deletion of the proposed charge for the Department's mailing costs, the rules do not impose additional costs on any individuals or entities.

The Department also:

- Changed the definition of "court of competent jurisdiction" in R9-1-301(6) to "a court with the authority to enter an order" from "a court with the authority to enter a certain type of order;"
- Deleted the word "as" from the definition of "outbreak" in R9-1-301(38);
- Clarified R9-1-303 by combining subsections (C) through (E), so that subsection (C) provides:
  C. Within 15 business days after the Department receives a public records request that meets the requirements in subsection (B) or at a later time agreed upon by the Department and the individual requesting the records, the Department shall respond to the request by:
     1. Sending by regular mail to the address provided in subsection (B)(2):
        a. An acknowledgement that the Department received the public records request;
        b. A list of categories of public health records that are not subject to disclosure; and

c. For the public health records requested that are subject to disclosure, a statement that the Department will notify the individual when disclosure will be provided; or

2. Providing:

a. A list of categories of public health records that are not subject to disclosure; and

b. For the public health records requested that are subject to disclosure, disclosure of the records.

- Re-lettered R9-1-303(F) and (G) to R9-1-303(D) and (E); and
- Made other technical changes suggested by the staff of the Governor's Regulatory Review Council.

11. A summary of the comments made regarding the rule and the agency response to them:

The Department did not receive any written or oral comments on the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

The Department did not previously make the rules as emergency rules.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 1. DEPARTMENT OF HEALTH SERVICES ADMINISTRATION

ARTICLE 2. PUBLIC PARTICIPATION IN RULEMAKING

Section

R9-1-201. Definitions

R9-1-203. Petition for ~~a Rule;~~ Department Rulemaking and Petition for Review of a ~~Rule, an Agency~~ Department Practice~~,~~ or ~~a~~ Substantive Policy Statement

ARTICLE 3. DISCLOSURE OF MEDICAL RECORDS, PAYMENT RECORDS, AND PUBLIC HEALTH RECORDS

Section

R9-1-301. ~~Reserved~~ Definitions

R9-1-302. ~~Reserved~~ Medical Records or Payment Records Disclosure

R9-1-303. ~~Reserved~~ Public Health Records Disclosure

R9-1-311. ~~Definitions~~ Repealed

R9-1-312. ~~Disclosure of a Medical Record~~ Repealed

ARTICLE 2. PUBLIC PARTICIPATION IN RULEMAKING

R9-1-201. Definitions

In addition to the definitions in R9-1-101(A), the following definitions apply in this Article, unless otherwise specified:

1. "Amendment" means a change to a rule, including added or deleted text.

~~2. "Oral proceeding" means a public gathering, held by the Department, for the pupose of receiving comment and answering questions about a propsed rule.~~

2. "Arizona Administrative Code" means the publication described in A.R.S. § 41-1012.

3. "Citation" means the number that identifies a rule.

4. "Person" means the same as in A.R.S. § 41-1001(13).

5. "Rulemaking" means the same as in A.A.C. R1-1-101.

~~1.~~ 6. "Rulemaking record" means a file maintained by the Department as specified in A.R.S. § § 41-1029.

~~3.~~ 7. "Substantive policy statement ~~has~~ means the same ~~meaning~~ as in A.R.S. § 41-1001(20).

8. "Text" means a letter, number, symbol, table, or punctuation in a rule.

R9-1-203. Petition for ~~a Rule;~~ Department Rulemaking and Petition for Review of a ~~Rule, an Agency~~ Department Practice or ~~a~~ Substantive Policy Statement

A. ~~An individual submitting a~~ A petition to the Department ~~to make a rule~~ for rulemaking under A.R.S. § 41-1033 shall include ~~the following on the petition~~:

1. The name and address of the individual ~~submitting~~ who submits the petition;
2. An identification of the ~~rule;~~ rulemaking, including:
   a. A statement of the rulemaking sought,
   b. The Arizona Administrative Code citation of each existing rule included in the petition, and
   c. A description of each new rule included in the petition;
3. The ~~suggested language~~ specific text of ~~the rule~~ each new rule or amendment;
4. The ~~reason~~ reasons ~~why a new rule should be made with supporting information, including, if applicable~~ for requesting the rulemaking, supported by:
   a. Statistical data ~~with references to attached exhibits, and~~;
   b. If the statistical data refers to exhibits, the exhibits;
   ~~b.~~ c. An identification of the persons who would be affected by the ~~rule~~ rulemaking and ~~how the persons would be affected~~ the type of effect; and
   d. Other information supporting the rulemaking;
5. The signature of the individual ~~submitting~~ who submits the petition; ~~and~~
6. The date the petition is signed~~.~~; and
7. A copy of each existing rule included in the petition.

B. ~~An individual submitting a~~ A petition to the Department under A.R.S. § 41-1033 ~~requesting that the Department~~ for review of ~~an agency~~ a Department practice or substantive policy statement that ~~the individual alleges~~ allegedly constitutes a rule shall include ~~the following on the petition~~:

1. The name and address of the individual ~~submitting~~ who submits the petition,
2. The ~~reason the individual alleges~~ reasons why the ~~agency~~ Department's practice or substantive policy statement allegedly constitutes a rule,
3. The signature of the individual ~~submitting~~ who submits the petition, ~~and~~
4. The date the petition is signed~~.~~; and
5. A copy of the Department's substantive policy statement or a description of the Department's practice.

~~**C.** An individual who submits a petition under subsection (B) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.~~

~~**D.**~~ **C.** ~~The Director~~ According to A.R.S. § 41-1033(A), the Department shall notify an individual who ~~files~~ submits a subsection (A) or subsection (B) petition ~~under subsection (A) or (B)~~ of the Department's decision in writing within ~~seven days of~~ 60 days after receipt of the petition.

D. If the Department denies a subsection (A) or subsection (B) petition, the individual who submitted the petition may proceed according to either A.R.S. § 41-1033(B) or A.R.S. § 41-1034 or according to both A.R.S. § 41-1033(B) and A.R.S. § 41-1034.

ARTICLE 3. DISCLOSURE OF MEDICAL RECORDS, PAYMENT RECORDS, AND PUBLIC HEALTH RECORDS

R9-1-301. ~~Reserved~~ Definitions

In addition to the definitions in R9-1-101(A), the following definitions apply in this Article, unless otherwise specified:

1. "Behavioral health services" means the assessment, diagnosis, or treatment of an individual's mental, emotional, psychiatric, psychological, psychosocial, or substance abuse issues.
2. "Business day" means the same as in A.R.S. § 10-140.
3. "Commercial purpose" means the same as in A.R.S. § 39-121.03(D).
4. "Consent" means permission by an individual or by the individual's parent, legal guardian, or other health care decision maker to have medical services provided to the individual.
5. "Correctional facility" means the same as in A.R.S. § 13-2501(2).
6. "Court of competent jurisdiction" means a court with the authority to enter an order.
7. "De-identified" means a public health record from which the information listed in 45 CFR 164.514(b)(2)(i) for an individual and the individual's relatives, employers, or household members has been removed.
8. "Diagnosis" means an identification of a disease or an injury by an individual authorized by law to make the identification.
9. "Disclose" means to release, transfer, provide access to, or divulge information in any other manner.
10. "Disclosure" means the release, transfer, provision of access to, or divulging of information in any other manner by the person holding the information.
11. "Disease" means a condition or disorder that causes the human body to deviate from its normal or healthy state.

12. "Documentation" means written supportive evidence.
13. "Emancipated minor" means an individual less than age 18 who:
    a. Is determined to be independent of parents or legal guardians under A.R.S. Title 12, Chapter 15, Article 1, as added by Laws 2005, Chapter 137, § 3, effective August 12, 2005;
    b. Meets the requirements for recognition as an emancipated minor in A.R.S. § 12-2455, as added by Laws 2005, Chapter 137, § 3, effective August 12, 2005;
    c. Has the ability to make a contract under A.R.S. § 44-131 or to consent to medical services under A.R.S. § 44-132; or
    d. Is married or is a U.S. armed forces enlisted member.
14. "Employee" means an individual who works for the Department for compensation.
15. "Enlisted member" means the same as in 32 U.S.C. 101(9).
16. "Epidemic" means a disease that affects a disproportionately large number of individuals in a population, community, or region at the same time.
17. "Estate" means the same as in A.R.S. § 14-1201(16).
18. "Financial institution" means a bank, a savings and loan association, a credit union, or a consumer lender.
19. "Halfway house" means a residential facility that temporarily provides shelter, food, and other services to an individual after the individual completes a confinement in a correctional facility or a stay in a health care institution.
20. "Health care decision maker" means the same as in A.R.S. § 12-2291(3).
21. "Health care institution" means the same as in A.R.S. § 36-401(23).
22. "Health care system" means the facilities, personnel, and financial resources in place in a state or other geographic area for delivering behavioral health services, medical services, nursing services, and health-related services to individuals in the state or other geographic area.
23. "Health oversight activity" means:
    a. Supervision of the health care system,
    b. Determining eligibility for health-related government benefit programs,
    c. Determining compliance with health-related government regulatory programs, or
    d. Determining compliance with civil rights laws for which health-related information is relevant.
24. "Health-related services" means the same as in A.R.S. § 36-401(24).
25. "Homeless minor" means an individual described in A.R.S. § 44-132(C).
26. "Homeless shelter" means the same as in A.R.S. § 16-121(D).
27. "Human Subjects Review Board" means individuals designated by the Director to:
    a. Review human subjects research that is conducted, funded, or sponsored by the Department for consistency with 45 CFR Part 46, Subpart A, dealing with the protection of the human subjects;
    b. Review requests for Department information from external entities conducting or planning to conduct human subjects research; and
    c. Establish guidelines for the submission and review of human subjects research.
28. "Incapacitated person" means the same as in A.R.S. § 14-5101(1).
29. "Incidence" means the rate of cases of a disease or an injury in a population, community, or region during a specified period.
30. "Individually identifiable health information" means the information described in 42 U.S.C. 1320d(6).
31. "Injury" means trauma or damage to a part of the human body.
32. "Jurat" means the same as in A.R.S. § 41-311(6).
33. "Legal guardian" means an individual:
    a. Appointed by a court of competent jurisdiction under A.R.S. Title 8, Chapter 10, Article 5 or A.R.S. Title 14, Chapter 5;
    b. Appointed by a court of competent jurisdiction under another state's laws for the protection of minors and incapacitated persons; or
    c. Appointed for a minor or an incapacitated person in a probated will.
34. "Medical records" means the same as in A.R.S. § 12-2291(5).
35. "Medical services" means the same as in A.R.S. § 36-401(31).
36. "Minor" means the same as in A.R.S. § 36-798(5).
37. "Nursing services" means the same as in A.R.S. § 36-401(35).
38. "Outbreak" means an unexpected increase in the incidence of a disease as determined by the Department or a health agency defined in A.R.S. § 36-671(5).
39. "Parent" means a biological or adoptive mother or father of an individual.
40. "Patient" means an individual receiving behavioral health services, medical services, nursing services, or health-related services.
41. "Payment records" means the same as in A.R.S. § 12-2291(6).
42. "Person" means the same as in A.R.S. § 41-1001(13).

43. "Personal representative" means the same as in A.R.S. § 14-1201(38).
44. "Probated will" means a will that has been proved as valid in a court of competent jurisdiction.
45. "Public health intervention" means responding to and containing:
    a. Outbreaks or epidemics of disease, or
    b. The incidence of injury.
46. "Public health investigation" means identifying and examining:
    a. Outbreaks or epidemics of disease, or
    b. The incidence of injury.
47. "Public health records" means information created, obtained, or maintained by the Department for:
    a. Public health surveillance, public health investigation, or public health intervention;
    b. A system of public health statistics;
    c. A system of vital records; or
    d. Health oversight activities.
48. "Public health surveillance" means monitoring the incidence and spread of a disease or an injury.
49. "Research" means the same as in 45 CFR 164.501.
50. "State" means the same as in A.R.S. § 36-841.
51. "Surviving spouse" means the individual:
    a. To whom a deceased individual was married at the time of death, and
    b. Who is currently alive.
52. "System of public health statistics" means the same as in A.R.S. § 36-301(31).
53. "System of vital records" means the same as in A.R.S. § 36-301(32).
54. "Third person" means a person other than:
    a. The individual identified by medical records; or
    b. The individual's parent, legal guardian, or other health care decision maker:
55. "Treatment" means a procedure or method to cure, improve, or palliate a disease or an injury.
56. "Valid authorization" means written permission to disclose individually identifiable health information that contains all the elements described in 45 CFR 164.508(c)(1).
57. "Veteran" means the same as in 38 U.S.C. 101(2).
58. "Vital record" means the same as in A.R.S. § 36-301(33).
59. "Volunteer" means an individual who works for the Department without compensation.
60. "Will" means the same as in A.R.S. § 14-1201(59).

R9-1-302. ~~Reserved~~ Medical Records or Payment Records Disclosure

A. Except as provided in subsection (B), an employee or volunteer shall not disclose to a third person medical records or payment records containing individually identifiable health information that the employee or volunteer obtained or accessed as a result of the employment or volunteering.

B. Unless otherwise prohibited by law, an employee or volunteer may disclose to a third person medical records or payment records containing individually identifiable health information:
1. With the valid authorization of the individual identified by the information in the medical records or payment records, if the individual:
    a. Is at least age 18 or an emancipated minor, and
    b. Is not an incapacitated person;
2. With the valid authorization of the parent, legal guardian, or other health care decision maker of the individual identified by the information in the medical records or payment records, if the individual is:
    a. Less than age 18, other than an emancipated minor; or
    b. An incapacitated person;
3. With the valid authorization of the individual identified by the information in the medical records or payment records, regardless of age, if:
    a. The information to be disclosed resulted from the consent given by the individual under A.R.S. § 44-132.01 or A.R.S. § 36-663; and
    b. The individual is not an incapacitated person;
4. With the valid authorization of the individual identified by information in the medical records or payment records if:
    a. The information to be disclosed resulted from the individual's treatment under A.R.S. § 44-133.01;
    b. The individual was at least age 12 at the time of the treatment under A.R.S. § 44-133.01 as established by documentation, such as a copy of the individual's:
        i. Driver license issued by a state, or
        ii. Birth certificate; and
    c. The individual is not an incapacitated person;
5. If the individual identified by the information in the medical records or payment records is deceased, upon the written request to the Department according to subsection (D) for disclosure of the deceased individual's medical records or

payment records to:
a. The deceased individual's health care decision maker at the time of death;
b. The personal representative of the deceased individual's estate; or
c. If the deceased individual's estate has no personal representative, a person listed in A.R.S. §§ 12-2294(D)(1) through 12-2294(D)(6);
6. At the direction of the Human Subjects Review Board, if the medical records or payment records are sought for research and the disclosure meets the requirements of 45 CFR 164.512(i)(2); or
7. As required by an order issued by a court of competent jurisdiction.

C. For purposes of subsection (B)(1), an individual less than age 18 who claims emancipated minor status shall submit to the Department a valid authorization signed by the individual less than age 18 and:
1. A copy of an order emancipating the individual issued by the Superior Court of Arizona;
2. If the individual was an emancipated minor in a state other than Arizona:
a. Documentation establishing that the individual is at least age 16, such as a copy of the individual's:
i. Driver license issued by a state, or
ii. Birth certificate; and
b. Documentation of the individual's emancipation, such as a copy of:
i. An order emancipating the individual issued by a court of competent jurisdiction of a state other than Arizona,
ii. A real property purchase agreement signed by the individual as the buyer or the seller in a state other than Arizona,
iii. An order for the individual to pay child support issued by a court of competent jurisdiction of a state other than Arizona, or
iv. A financial institution loan agreement signed by the individual as the borrower in a state other than Arizona;
3. A copy of the individual's marriage certificate issued by a state;
4. If the individual is a homeless minor, documentation such as:
a. A statement on the letterhead of a homeless shelter or halfway house that:
i. Is dated within 10 days before the date the Department receives the document,
ii. States the homeless shelter or halfway house is the individual's primary residence,
iii. Is signed by an authorized signer for the homeless shelter or halfway house, and
iv. States the authorized signer's title or position at the homeless shelter or halfway house; or
b. A statement signed by the individual that:
i. The individual does not live with the individual's parents, and
ii. The individual lacks a fixed nighttime residence;
5. If the individual is a U.S. armed forces enlisted member, a copy of the individual's U.S. armed forces:
a. Enlistment document, or
b. Identification card; or
6. If the individual is a U.S. armed forces veteran, a copy of the individual's discharge certificate.

D. A request to the Department under subsection (B)(5) to disclose medical records or payment records shall include:
1. The name of the individual identified by the information in the medical records or payment records;
2. A statement that the individual identified by the information in the medical records or payment records is deceased;
3. The description and dates of the medical records or payment records requested;
4. The name, address, and telephone number of the person requesting the medical records or payment records disclosure;
5. Whether the person requesting the medical records or payment records disclosure:
a. Was the deceased individual's health care decision maker at the time of death,
b. Is the personal representative of the deceased individual's estate, or
c. Is a person listed in A.R.S. § 12-2294(D);
6. The signature of the individual requesting the medical records or payment records disclosure;
7. Documentation that the individual identified by the information in the medical records or payment records is deceased, such as a copy of:
a. The individual's death certificate,
b. A published obituary notice for the individual, or
c. Written notification of the individual's death; and
8. Documentation establishing the relationship to the deceased individual indicated under subsection (D)(5), such as a copy of:
a. Appointment as the deceased individual's legal guardian by a court of competent jurisdiction,
b. Appointment as the personal representative of the deceased individual's estate by a court of competent jurisdiction,
c. The deceased individual's birth certificate naming the person requesting the medical records or payment records

as a parent,
d. The birth certificate of the person requesting the medical records or payment records naming the deceased individual as a parent, or
e. If the person requesting the medical records or payment records disclosure is the deceased individual's surviving spouse:
i. A copy of the person's marriage certificate naming the deceased individual as spouse, and
ii. The person's statement that the person and the deceased individual were not divorced or legally separated at the time of the deceased individual's death, or
iii. A copy of the deceased individual's probated will naming the person as the deceased individual's surviving spouse.

E. The Department shall send a response to a request for medical records or payment records disclosure under subsection (B)(5) that meets the requirements of subsection (D):
1. By regular mail,
2. To the address provided under subsection (D)(4), and
3. Within 30 days after the date the Department receives the request.

R9-1-303. ~~Reserved~~ Public Health Records Disclosure

A. A.R.S. Title 39, Chapter 1, Article 2 governs the Department's disclosure of public health records, except for:
1. Disclosure of public health records under A.R.S. §§ 36-104(9) and 36-105;
2. Disclosure of vital records under A.R.S. §§ 36-324, 36-342, and 36-351; and
3. At the direction of the Human Subjects Review Board, disclosure of public health records that are not de-identified when:
a. The public health records are sought for research, and
b. The disclosure meets the requirements of 45 CFR 164.512(i)(2).

B. For disclosure of public health records under A.R.S. Title 39, Chapter 1, Article 2, an individual shall submit to the Department a public records request that contains:
1. The request date;
2. The requester's name, address, and telephone number;
3. If applicable, the name, address, and telephone number of the requester's organization;
4. A specific identification of the public health records to be disclosed, including the description and dates of the records;
5. Whether the public health records identified in subsection (B)(4) will be used for commercial purposes;
6. If the requester indicates under subsection (B)(5) that the public health records will be used for commercial purposes, an explanation of each commercial purpose;
7. The requester's signature; and
8. If the requester indicates under subsection (B)(5) that the public health records will be used for a commercial purpose,:
a. A jurat completed by an Arizona notary; or
b. A notarization from another state indicating that the notary:
i. Verified the signer's identity,
ii. Observed the signing of the document, and
iii. Heard the signer swear or affirm the truthfulness of the document.

C. Within 15 business days after the Department receives a public records request that meets the requirements in subsection (B) or at a later time agreed upon by the Department and the individual requesting the records, the Department shall respond to the request by:
1. Sending by regular mail to the address provided in subsection (B)(2):
a. An acknowledgement that the Department received the public records request;
b. A list of categories of public health records that are not subject to disclosure; and
c. For the public health records requested that are subject to disclosure, a statement that the Department will notify the individual when disclosure will be provided; or
2. Providing:
a. A list of categories of public health records that are not subject to disclosure; and
b. For the public health records requested that are subject to disclosure, disclosure of the records.

D. The Department shall ensure that public health records disclosed pursuant to a public records request are de-identified.

E. For copies of public health records disclosed pursuant to a public records request:
1. If the copies are for a commercial purpose, the Department shall charge:
a. The amount determined according to A.R.S. § 39-121.03, and
b. Based on the requester's explanation under subsection (B)(6);
2. If the copies are not for a commercial purpose, the Department shall charge twenty-five cents per page; or
3. If the copies are for a purpose stated in A.R.S. § 39-122(A), the Department shall not impose a charge.

R9-1-311. ~~Definitions~~ Repealed

~~In this Article, unless otherwise specified:~~

1. ~~"Incompetent" means an individual who is determined by a court of competent jurisdiction to require a legal guardian to protect the interests of and to represent the individual.~~
2. ~~"Medical record" means all communications listed in A.R.S. § 12-2291(4).~~
3. ~~"Employee" means an individual who works for the Department for compensation.~~
4. ~~"Human Subjects Research Committee" means individuals designated by the Director to review and approve the release of medical information.~~
5. ~~"Legal guardian" means an individual appointed by the court under A.R.S. Title 14, Chapter 5 or Title 36, Chapter 5.~~
6. ~~"Parent" means a biological or adoptive mother or father of an individual.~~
7. ~~"Volunteer" means an individual who works for the Department without compensation.~~

R9-1-312. ~~Disclosure of a Medical Record~~ Repealed

~~A.~~ ~~Except as authorized in subsection (B), an employee or volunteer shall not disclose a medical record the employee or volunteer has obtained or has access to as a result of being employed by or volunteering with the Department that allows an individual to be identified.~~

~~B.~~ ~~Unless otherwise prescribed by law, an employee or volunteer may disclose a medical record:~~

1. ~~If an individual who is 18 years of age or older and is not incompetent is identified in the medical record, only with the written permission of the individual.~~
2. ~~If an individual who is less than 18 years old or is incompetent is identified in the medical record, only with written permission from the individual's parent or legal guardian;~~
3. ~~To the surviving spouse or legal representative of an individual's estate, upon the surviving spouse or legal representative's written request;~~
4. ~~At the direction of the Director, or the Human Subjects Research Committee, if the medical record is sought for a scientific or medical research purpose; or~~
5. ~~As required by a court order issued by a court of competent jurisdiction.~~

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 4. DEPARTMENT OF HEALTH SERVICES
NONCOMMUNICABLE DISEASES

[R06-349]

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-4-401	Amend
R9-4-403	Amend
R9-4-404	Amend
R9-4-405	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-136(A)(7) and (F)

Implementing statutes: A.R.S. §§ 36-133 and 36-606

3. The effective date of the rules:

November 11, 2006

4. A list of all previous notices appearing in the *Register* addressing the final rule:

Notice of Rulemaking Docket Opening: 12 A.A.R. 1563, May 12, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 1818, June 2, 2006

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Georgia Yee, Office Chief
Address:	Arizona Department of Health Services Bureau of Public Health Statistics 150 N. 18th Ave., Suite 550 Phoenix, AZ 85007
Telephone:	(602) 542-7321
Fax:	(602) 364-0296
E-mail:	yeega@azdhs.gov
	or
Name:	Kathleen Phillips, Rules Administrator
Address:	Arizona Department of Health Services Office of Administrative Rules 1740 W. Adams, Suite 202 Phoenix, AZ 85007
Telephone:	(602) 542-1264
Fax:	(602) 364-1150
E-mail:	phillik@azdhs.gov

6. An explanation of the rule, including the agency's reason for initiating the rule:

A.R.S. § 36-133 requires the Arizona Department of Health Services to develop a cancer registry for the collection, management, and analysis of information on the incidence of cancer in Arizona. *Arizona Administrative Code* Title 9, Chapter 4, Article 4 implements that statute by providing definitions and reporting requirements for hospitals, clinics, pathology laboratories, physicians, dentists, doctors of naturopathic medicine, and registered nurse practitioners to follow when reporting cancer cases or responding to requests for information from a hospital or the Department. The rules allow the Department to collect information needed to monitor incidence patterns; identify population subgroups at risk; analyze data relating to the detection, diagnosis, and treatment of persons with cancer; and identify areas that need intervention or prevention programs. Data collected is also used to perform studies and to provide epidemiological information to the medical community.

At the request of a group representing doctors of naturopathic medicine, the Department initiated this rulemaking. The rulemaking corrects unclear references, adds doctors of naturopathic medicine to those required to submit case reports, and clarifies that outpatient radiation treatment centers are to report as clinics. All changes conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study related to this rulemaking package.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

As used in this summary, annual costs/revenues are designated as minimal when less than $1,000, moderate when between $1,000 and $10,000, and substantial when greater than $10,000.

Businesses affected by the rule changes include doctors of naturopathic medicine and outpatient radiation treatment centers. Under these rules, the Department will require doctors of naturopathic medicine to initiate a case report to the Department for patients not referred to a hospital or clinic for treatment of cancer. Currently, doctors of naturopathic medicine need only to respond to requests from a hospital or the Department for information about their patients with cancer. The Department expects doctors of naturopathic medicine to incur minimal costs due to this change in the rules.

Outpatient radiation treatment centers currently submit case reports to the Department, but from the definition of "clinic," it may not be clear that outpatient radiation treatment centers are considered clinics. The revised rules are expected to cause minimal costs to an outpatient radiation treatment center, and may benefit the outpatient radiation treatment center, the Department, and the general public by clarifying how radiation treatment centers will report to the Department.

The public will benefit substantially from a complete population-based cancer reporting system that may lead to a reduction in the number of individuals who develop cancer and who may die of cancer. The information gathered and compiled by the Department is used by researchers to perform studies and is used by other health care professionals to provide intervention programs for individuals with cancer.

The Department has determined that the benefits related to public health outweigh any potential costs associated with this rulemaking.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor technical and grammatical changes were made by the Department and at the suggestion of staff of the Council to improve clarity.

11. A summary of the comments made regarding the rule and the agency response to them:

There were no oral comments at the oral proceeding, and the Department received no written comments.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 4. DEPARTMENT OF HEALTH SERVICES
NONCOMMUNICABLE DISEASES

ARTICLE 4. CANCER REGISTRY

Section
R9-4-401. Definitions
R9-4-403. Case Reports
R9-4-404. Requirements for Submitting Case Reports and Allowing Review of Hospital Records
R9-4-405. Data Quality Assurance

ARTICLE 4. CANCER REGISTRY

R9-4-401. Definitions

In this Article, unless otherwise specified:

1. No change
2. No change
3. No change
   a. No change
   b. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
    a. No change
    b. No change
    c. No change
11. No change
12. No change
13. No change

14. No change
15. "Clinic" means a facility that is not physically connected to or affiliated with a hospital, where a physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner provides cancer diagnosis, cancer treatment, or both, and that is:
    a. An outpatient treatment center, as defined in A.A.C. R9-10-101, ~~or~~
    b. An outpatient surgical center, as defined in A.A.C. R9-10-101, or
    c. An outpatient radiation treatment center.
16. "Clinical evaluation" means an examination of the body of an individual for the presence of disease or injury to the body, and review of any laboratory test results for the individual by a physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner.
17. No change
18. No change
19. No change
20. No change
21. No change
22. "Designee" means a person assigned by the governing authority of a hospital or clinic or by an individual acting on behalf of the governing authority to gather information for or report to the Department, as specified in R9-4-403 or R9-4-404.

~~22.~~23. No change
~~23.~~24. No change
~~24.~~25. No change
~~25.~~26. No change
~~26.~~27. No change
~~27.~~28. No change
~~28.~~29. No change
~~29.~~30. No change
~~30.~~31. No change
32. "Governing authority" means the same as in A.R.S. § 36-401.

~~31.~~33. No change
~~32.~~34. No change
~~33.~~35. No change
~~34.~~36. No change
~~35.~~37. No change
~~36.~~38. No change
~~37.~~39. No change
~~38.~~40. No change
~~39.~~41. No change
~~40.~~42. No change
~~41.~~43. "Medical record number" means a unique number assigned by a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner to an individual for identification purposes.

~~42.~~44. No change
~~43.~~45. No change
~~44.~~46. No change
~~45.~~47. No change
~~46.~~48. No change
~~47.~~49. No change
50. "Outpatient radiation treatment center" means a facility in which a person, licensed as specified in 12 A.A.C. 1, Article 7, provides radiation treatment.

~~48.~~51. No change
~~49.~~52. No change
~~50.~~53. No change
    a. No change
    b. No change

~~51.~~54. No change
~~52.~~55. No change
~~53.~~56. No change
~~54.~~57. No change
~~55.~~58. No change
~~56.~~59. No change

~~57.~~60. No change
~~58.~~61. No change
~~59.~~62. No change
~~60.~~63. No change
~~61.~~64. "Release" means to transfer care of a patient from a hospital to a physician, a doctor of naturopathic medicine, a registered nurse practitioner, an outpatient treatment center, another hospital, the patient, ~~or~~ the patient's parent ~~or legal guardian,~~ if the patient is under 18 years of age and unmarried, or the patient's legal guardian.
~~62.~~65. "Reporting facility" means a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner that submits a case report to the Department.
~~63.~~66. No change
~~64.~~67. No change
~~65.~~68. No change
a. No change
b. No change
c. No change
d. No change
~~66.~~69. No change
~~67.~~70. No change
~~68.~~71. "Stage group" means a scheme for categorizing a patient, based on the staging classification of the patient's cancer, to enable a physician, doctor of naturopathic medicine, or registered nurse practitioner to provide better treatment and outcome information to the patient.
~~69.~~72. No change
a. No change
b. No change
c. No change
~~70.~~73. No change
~~71.~~74. No change
~~72.~~75. No change
~~73.~~76. No change
~~74.~~77. No change
~~75.~~78. No change
~~76.~~79. No change

R9-4-403. Case Reports

A. A ~~clinic,~~ physician, doctor of naturopathic medicine, dentist, ~~or~~ registered nurse practitioner, or the designee of a clinic shall:
1. No change
2. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
g. No change
h. No change
i. No change
j. No change
k. No change
l. No change
m. No change
n. No change
o. No change
p. No change
q. No change
r. No change
s. No change
t. No change
u. No change
v. No change

w. No change
x. No change
3. No change

B. ~~A~~ The cancer registry of a hospital with a licensed capacity of fewer than 50 inpatient beds that reports as specified in R9-4-404(A) and the cancer registry of a hospital with a licensed capacity of 50 or more inpatient beds shall:
1. No change
2. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
g. No change
h. No change
i. No change
j. No change
k. No change
l. No change
m. No change
n. No change
o. No change
p. No change
q. No change
r. No change
s. No change
t. No change
u. No change
v. No change
w. No change
x. No change
i. No change
ii. No change
iii. No change
iv. Surgery of regional sites, distant sites, or distant lymph nodes; ~~or~~ and
v. Reason for no surgery or that surgery was performed;
y. No change
z. No change
aa. No change
bb. No change
cc. No change
dd. No change
ee. No change
i. No change
ii. No change
iii. No change
iv. No change
ff. No change
gg. No change
hh. No change
3. Use codes and coding format supplied by the Department for data items specified in subsection ~~(A)(2)~~ (B)(2) that require codes in the case report.

R9-4-404. Requirements for Submitting Case Reports and Allowing Review of Hospital Records

A. ~~A~~ The cancer registry of a hospital with a licensed capacity of 50 or more inpatient beds shall ensure that:
1. No change
2. No change
a. No change
b. No change

B. ~~A~~ The cancer registry or other designee of a hospital with a licensed capacity of fewer than 50 inpatient beds shall either

report as specified in subsection (A), or shall at least once every six months:
1. No change
   a. No change
      i. No change
      ii. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
2. Allow the Department to review the records listed in ~~R9-4-405(B)~~ R9-4-405(A) to obtain the information specified in R9-4-403 about a patient.

C. If the designee of a clinic submitted 100 or more case reports to the Department in the previous calendar year or expects to submit 100 or more case reports in the current calendar year, the designee of the clinic shall:
1. No change
2. No change
   a. No change
   b. No change

D. If the designee of a clinic submitted fewer than 100 case reports to the Department in the previous calendar year and expects to submit fewer than 100 case reports in the current calendar year, the designee of the clinic shall submit an electronic or paper case report to the Department for each patient, within 30 calendar days from the date of diagnosis of cancer in the patient, if the clinic:
1. No change
2. No change

E. A physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner shall submit an electronic or paper case report to the Department for each patient, within 30 calendar days from the date of diagnosis of cancer in the patient, if the physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner:
1. No change
2. No change

F. No change

G. No change

H. No change
1. No change
2. No change

R9-4-405. Data Quality Assurance

A. To ensure completeness and accuracy of cancer reporting, upon notice from the Department of at least five business days, a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner required to report under R9-4-404 shall allow the Department to review any of the following records, as are applicable to the facility:
1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. Records other than those specified in subsections (A)(1) through (A)(6) that contain information about diagnostic evaluation, cancer-directed treatment, or other treatment provided to an individual by the hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner.

B. The Department shall consider a hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner required to report under R9-4-404 as meeting the criteria in R9-4-404 if the hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner submits a case report to the Department for at least 97% of the patients for whom a case report is required under R9-4-404 during a calendar year.

C. No change
1. No change
2. No change

D. The Department shall return a case report not prepared according to R9-4-403 to the hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner that submitted the case report, identifying the revisions that are needed in the case report. The hospital, clinic, physician, doctor of naturopathic medicine, dentist, or registered nurse practitioner shall submit the revised case report to the Department within 15 business days from the date the Department requests the revision.

E. No change

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 18. DEPARTMENT OF HEALTH SERVICES
LOCAL HEALTH DEPARTMENT SERVICES

[R06-350]

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-18-101	Amend
R9-18-102	Amend
R9-18-103	Amend
R9-18-104	Amend
R9-18-105	Repeal
R9-18-105	New Section
R9-18-106	Repeal
R9-18-106	Renumber
R9-18-106	Amend
R9-18-107	Renumber

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 36-132(A) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-132(A)(2) and 36-189(A)

3. The effective date of the rules:

November 11, 2006

4. A list of all previous notices appearing in the *Register* addressing the final rule:

Notice of Rulemaking Docket Opening: 11 A.A.R. 3975, October 14, 2005

Notice of Proposed Rulemaking: 12 A.A.R. 1598, May 19, 2006

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Carol Vack

Address: Arizona Department of Health Services
Local Health Liaison and Program Manager
Preventive Health Block Grant
150 N. 18th Ave., Suite 300
Phoenix, AZ 85007

Telephone: (602) 542-7395

Fax: (602) 542-1265

E-mail: vackc@azdhs.gov

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 W. Adams, Suite 202
Phoenix, AZ 85007

Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

6. An explanation of the rule, including the agency's reason for initiating the rule:

In accordance with the five-year review report for 9 A.A.C. 18, Article 1, approved by the Governor's Regulatory Review Council (Council) on December 5, 2000, and as stated in the five-year review report approved by the Council on June 6, 2006, the Arizona Department of Health Services (Department) has revised the Per Capita Matching Funds rules. The proposed changes add definitions of undefined terms, establish consistent definitions for other terms, correct grammatical errors, clarify and simplify the application process, update the standards for personnel to make them consistent with current statutes, and conform to rulemaking format and style requirements of the Council and the Office of the Secretary of State.

The Department has amended Article 1 so the rules better specify the "minimum standards of personnel and performance" and the terms for "submission and approval of a plan and budget by ... local health departments" according to A.R.S. § 36-189. The Article specifies the requirements for the application to receive funds and the process by which the Department will review the applications, provides minimum standards pertaining to a registered nurse and a sanitarian, identifies the types of records that must be maintained and time periods for the retention of records, authorizes the Department to conduct site visits to the local health departments and audits of records, and requires local health departments to refund any funds expended for purposes not set forth in the approved application and to notify the Department of any changes to the incumbent registered nurse or sanitarian or to the approved plan.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study related to this rulemaking package.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Annual costs or revenues are designated as minimal when less than $1,000, moderate when between $1,000 and $10,000, and substantial when greater than $10,000.

Cost Bearers

- The Department bears moderate costs related to reviewing, writing, and directing the rules through the rulemaking process.
- Local health departments may bear a minimal cost from providing education to registered nurses without a baccalaureate degree who direct public health nursing services.

Beneficiaries

- The Department will benefit to a minimal to moderate degree from the reduced time it will take to review the simplified application and from the clarification of requirements.
- Local health departments will benefit to a minimal to moderate degree from the simplified application process and from the clarification of requirements.
- The general public will benefit to a minimal to moderate degree from the increased time that staff of a local health department will be able to spend in the provision of local health department services rather than on the preparation of the application.

The Department determined that the benefits to public health and safety outweigh the costs associated with this rulemaking.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor technical and grammatical changes were made by the Department and at the suggestion of staff of the Council to improve clarity.

11. A summary of the comments made regarding the rule and the agency response to them:

There were no oral comments at the oral proceeding, and the Department received no written comments.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:
None

14. Was this rule previously made as an emergency rule?
No.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 18. DEPARTMENT OF HEALTH SERVICES
LOCAL HEALTH DEPARTMENT SERVICES

ARTICLE 1. PER CAPITA MATCHING FUNDS

Section
R9-18-101. Definitions
R9-18-102. ~~Grant application~~ Grant Application
R9-18-103. ~~Review and approval of application~~ Review of Application and Awarding of Grant
R9-18-104. ~~Minimum standard of personnel; waiver~~ Minimum Standard of Personnel; Waiver
R9-18-105. ~~Required records and accounts~~ Record Retention and Review
~~R9-18-106. Visitation, inspection and audit~~
~~R9-18-107.~~ R9-18-106.~~Notice to department~~ Notice to Department
R9-18-107. Renumbered

ARTICLE 1. PER CAPITA MATCHING FUNDS

R9-18-101. Definitions
~~The following definitions shall apply in this Article unless the context otherwise requires:~~
In this Article, unless otherwise specified:

1. "Application" means the information and documents submitted to the Department by a local health department to obtain approval from the Department to receive funds through a Per Capita Matching Grant.
2. "Business hours" means the specific time period during a day in which a local health department is open to provide local health department services.
3. "Clinical services" means activities performed by a local health department that are:
   a. Provided to an individual within a local health department building or at a location specified by the local health department, and
   b. Intended to provide medical or nursing services to the individual.
4. "Communicable disease" means the same as in A.A.C. R9-6-101.
5. "Communicable disease control services" means activities intended to identify, prevent, or reduce the incidence, spread, or severity of communicable diseases.

~~1.~~6. "Department" means the Arizona Department of Health Services.

7. "Designated service area" means a geographical section of Arizona, specified by a local health department, in which local health department services are provided.
8. "Direction" means the same as in A.R.S. § 36-401.
9. "Electronic" means the same as in A.R.S. § 44-7002.
10. "Environmental health services" means activities intended to identify, prevent, or reduce the exposure of an individual to substances or conditions in air, water, food, soil, or objects with which the individuals may come into contact, which may adversely impact human health.
11. "Epidemiologic investigation" means the same as in A.A.C. R9-6-101.
12. "Health education" means supplying oral or written information to an individual or a group of individuals for the purpose of enabling the individual or group of individuals to attain or maintain optimal health.
13. "High-risk population" means individuals in a designated service area who have medical, social, financial, or other problems that increase the chances that the individuals will need more help than most other individuals in order to maintain or attain optimal health.
14. "Immunization" means the same as in A.R.S. § 36-671.

~~2. "Local health department", also referred to herein as "applicant", means any established county or municipal health department in the state of Arizona.~~

15. "Local health department" means the same as in A.R.S. § 36-671.

~~3. "Local health department services" means programs which are funded by the Per Capita Matching Grant and which promote and protect the health of the residents in a designated service area providing services relating to communicable disease control, maternal and child health, health education, and environmental health.~~

16. "Local health department services" means activities performed by a local health department within a designated service area that:
    a. Are funded in part by a Per Capita Matching Grant;
    b. Assist individuals, groups of individuals, and populations to improve health and prevent disease;
    c. Address:
        i. Communicable disease control services,
        ii. Maternal and child health services, or
        iii. Environmental health services; and
    d. Include activities such as:
        i. Providing public health nursing services;
        ii. Providing clinical services to individuals;
        iii. Providing health education;
        iv. Performing epidemiologic investigations;
        v. Planning for public health emergencies and mobilizing community resources during emergencies;
        vi. Assisting individuals to access state or federal health programs;
        vii. Coordinating local services concerning nutrition, health-related services, financial assistance with health-related expenses, or other services needed by an individual;
        viii. Serving as a resource for local programs; and
        ix. Evaluating the effects of activities and services provided by the local health department.
17. "Maternal and child health services" means activities, such as those specified in A.R.S. § 36-132, that are intended to promote the health of women and children.
18. "Medical services" means the same as in A.R.S. § 36-401.
19. "Modification" means a change to the local health department services identified in a local health department's narrative plan, as specified in R9-18-102(A)(1)(b).
20. "Nursing services" means the same as in A.R.S. § 36-401.

~~4. "Objectives" means the specific results to be achieved by the local health department over a period corresponding to the state fiscal year which contain specific criteria to measure the planned and expected results.~~

~~5. "Office" means the Office of Local Health Services within the Arizona Department of Health Services.~~

~~6.~~21. "Per Capita Matching Grant" means an allocation of funds by the Department to a local health department~~, based on service population and minimum standards of personnel and performance, as specified in R9-18-104, for local health department services which are to be matched by each local health department~~ as provided in A.R.S. § 36-189.

22. "Population" means a group of individuals who share a specific characteristic or set of characteristics.
23. "Public health emergency" means any local emergency, as defined in A.R.S. § 26-301, that may affect the health of individuals or populations within a designated service area.
24. "Public health nursing services" means activities performed by a local health department within a designated service area that include:
    a. Assessing the health and health needs of individuals and populations;
    b. Developing and administering nursing services to meet the health needs of high-risk populations;
    c. Evaluating the effects of nursing services on the health of an individual or a population;
    d. Coordinating nursing or medical services for an individual or a population;
    e. During planning for public health emergencies, recommending strategies to meet the health needs of individuals and high-risk populations; and
    f. Performing nursing services in response to public health emergencies.
25. "Registered nurse" means an individual licensed under A.R.S. Title 32, Chapter 15, Article 2, to practice professional nursing, as defined in A.R.S. § 32-1601.
26. "Registered sanitarian" means an individual who meets the requirements for a registered sanitarian specified in A.R.S. § 36-136.01 and 9 A.A.C. 16, Article 4.
27. "Service population" means the specific group of individuals who are eligible to receive local health department services from a local health department.

~~7.~~28. "State fiscal year" means the period from July 1 of one year through June 30 of the following year.

29. "Submit" means to send a document from a local health department to the Department by mail, electronically, or by an express package delivery service.
30. "Supervision" means the same as in A.R.S. § 36-401.

R9-18-102. ~~Grant application~~ Grant Application

~~A. No local health department may receive a Per Capita Matching Grant from the Department for the provision of local health department services without the submission and approval of a written application which includes a plan and budget.~~

~~**B.** To receive such grant, an application shall be filed with the Office on forms prescribed by and available at no charge from the Office which shall include the following categories of information for each applicant:~~
~~1. Names, titles, addresses and office telephone numbers for current director or head of the local health department, its supervising body and any chief fiscal officer.~~
~~2. A current organization chart which identifies each department unit and its relationship to the whole organization, and the name and title of the person in charge of each unit.~~
~~3. A list of personnel to be directly involved in the provision of local health department services by job classification and grade.~~
~~4. A signed letter of assurance certifying that, if a grant is awarded, the applicant agrees to:~~
~~a. Provide designated local health department services without regard to race, religion, sex, age, or handicap;~~
~~b. Utilize a federally approved merit system according to Standards contained in 5 CFR Part 900, Subpart F, as amended as of January 1, 1987, incorporated by reference herein and on file in the Office of the Secretary of State.~~
~~c. Comply with confidentiality of records requirements found at A.A.C. R9-1-311 through R9-1-315.~~
~~d. Comply with report and recordkeeping requirements found at A.A.C. R9-18-105;~~
~~e. Comply with matching ratio provisions of A.R.S. § 36-189;~~
~~f. Comply with visitation, inspection and audit requirements found at A.A.C. R9-18-106;~~
~~g. Promote and coordinate the use of local health department services; and~~
~~h. Give recognition to the Department for its support when publishing material or releasing service-related information.~~
~~5. A narrative plan for a period corresponding to the state fiscal year which specifically identifies the purpose of each local health department service to be provided using:~~
~~a. A needs assessment;~~
~~b. Service objectives;~~
~~c. Designated geographic area to be served;~~
~~d. Ability and experience of the applicant to perform such services;~~
~~e. Projected number of clients to be served and basis for the projection of each service as well as the number of clients previously served within the last state fiscal year;~~
~~f. Evaluation methodology; and~~
~~g. The specific legal authority of the applicant to provide the service for which funds are being requested.~~
~~6. The budget for the period corresponding to the state fiscal year, categorized by program if such data is available, as approved by the applicant's supervising body which clearly identifies:~~
~~a. Treating separately the proportionate shares of the Department and the applicant and providing a total cost for each of the following:~~
~~i. Personal services and employee-related expenditures;~~
~~ii. Professional and outside services;~~
~~iii. Travel expenses;~~
~~iv. Occupancy expenses;~~
~~v. Other operating expenses; and~~
~~vi. Capital outlay.~~
~~b. With regard to the source of participating funds for the applicant's share, identify:~~
~~i. The amount of the applicant's own funds;~~
~~ii. Amount of grants for non-department funds;~~
~~iii. Amount of participation by other agencies and organizations; and~~
~~iv. Amount of any other sources.~~
~~7. A comparison of actual expenditures made by the local health department during the period corresponding to the previous state fiscal year for local health department services with the amount budgeted for such services.~~
~~**C.** To be considered for approval, a complete application shall be filed with the Office by no later than January 1 of the current fiscal year. Failure to file a complete application by that date shall result in its denial. Such denial is final.~~
~~**D.** Applications shall furnish any other information as may be requested by the Office to clarify incomplete or ambiguous information contained in the application or any documents filed with the application.~~

A. A local health department may request funds from the Department through a Per Capita Matching Grant by submitting an application to the Department that includes:
1. A narrative plan for the period corresponding to the state fiscal year, which specifically identifies:
   a. A designated service area;
   b. The local health department services, such as those specified in R9-18-101(16)(d), which will be provided in the designated service area;
   c. Which of the local health department services, identified in subsection (A)(1)(b), the local health department provided in the last three years; and

d. The number of individuals projected to receive the local health department services identified in subsection (A)(1)(b);

2. A budget for the period corresponding to the state fiscal year, which identifies:
   a. The total cost for providing local health department services within the designated service area;
   b. A list of all sources of funds to be used by the local health department for providing local health department services within the designated service area; and
   c. The proportionate shares of the total cost to be paid by funds obtained from the sources listed in subsection (A)(2)(b);
3. A chart that shows the organizational structure of the local health department, including:
   a. The names of the incumbents in each position; and
   b. A designation of the types of local health department services performed by the incumbent in each position; and
4. The signature of an individual authorized by the local health department's County Board of Supervisors, under A.R.S. § 11-201, to submit the application.

B. A local health department shall submit an application to the Department so that the application is:
1. Received by the Department on or before December 31 of the current state fiscal year; or
2. Postmarked, or accepted for delivery by an express package delivery service, on or before December 31 of the current state fiscal year, and received by the Department on or before January 5 of the current state fiscal year.

C. A local health department shall furnish to the Department any other information as may be requested by the Department, as specified in R9-18-103(A)(2), to clarify incomplete or ambiguous information contained in the local health department's application.

R9-18-103. ~~Review and approval of application~~ Review of Application and Awarding of Grant

~~**A.** Within 15 calendar days of the filing, the Office shall review and either approve or deny the application in writing, using the criteria established in R9-18-102 and A.R.S. § 36-189(A).~~

~~**B.** For purposes of clarification, an applicant may be required to make an oral presentation regarding its submission to the Office.~~

~~**C.** If the application is approved, the Office shall notify the local health department and authorize payment of the Per Capita Matching Grant within 30 days.~~

~~**D.** If the application is incomplete or denied for reasons other than timeliness, the notice shall clearly identify the deficiencies and give the local health department an opportunity to meet with the Office to take any and all corrective action. However, if both the meeting and corrective action do not occur within 45 calendar days after issuance of the denial notice, the denial is final and the local health department shall not be eligible to file another application until the following state fiscal year.~~

A. Within 15 calendar days of the receipt of an application from a local health department, the Department shall:
1. Review the application to determine whether the application:
   a. Contains all the information specified in R9-18-102(A); and
   b. Was submitted as specified in R9-18-102(B);
2. Request from the local health department any additional information necessary to clarify incomplete or ambiguous information contained in the local health department's application;
3. Award a Per Capita Matching Grant to the local health department for the purposes set forth in the application if the application:
   a. Meets the criteria specified in subsection (A)(1); or
   b. Meets the criteria specified in subsection (A)(1)(b), and the local health department furnishes to the Department the information requested under subsection (A)(2) within seven calendar days of the Department's request; and
4. Notify the local health department in writing whether the Per Capita Matching Grant is awarded or denied, including, if the Per Capita Matching Grant is denied, the reason for the denial.

B. If a Per Capita Matching Grant is awarded to a local health department, the Department shall authorize payment of per capita matching funds to the local health department within 30 days of the receipt of an application.

R9-18-104. ~~Minimum standard of personnel; waiver~~ Minimum Standard of Personnel; Waiver

~~**A.** Any registered nurse to be directly involved in community health services provided by a local health department shall have a baccalaureate degree in the science of nursing from an institution accredited by the National League of Nursing. An applicant may apply to the Office for a waiver of this requirement. Such a waiver may be granted if the applicant establishes that:~~
~~1. The registered nurse is licensed in Arizona;~~
~~2. The application of the requirement would impose an undue burden upon the applicant or the services to be provided; and~~
~~3. Granting a waiver shall not adversely affect the public health, safety or welfare.~~

~~**B.** Any nurse to be directly involved in clinic services provided by a local health department shall meet the definitions found in A.R.S. § 32-1601(6) or (7).~~

~~C. Any registered nurse or sanitarian providing local health department services within the state of Arizona on the date this Article is filed with the Secretary of State shall be permitted to continue to do so.~~

~~D. Any sanitarian to be directly involved in the provision of local health department services shall be currently registered in the state of Arizona.~~

A. For clinical services delivered by a local health department, a local health department shall ensure that:
   1. A physician licensed under A.R.S. Title 32, Chapter 13 or 17 provides direction for medical services; and
   2. A registered nurse provides direction for and supervision of nursing services.

B. Except as provided in subsection (C), a local health department shall ensure that:
   1. A registered nurse provides direction for public health nursing services; and
   2. The registered nurse specified in subsection (B)(1) has:
      a. A baccalaureate degree in the science of nursing from an institution accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education; or
      b. Five years experience providing public health nursing services.

C. A local health department may submit to the Department a request for a waiver of the requirement in subsection (B)(2) that includes:
   1. The reason for the request, including what burden the requirement would impose upon the local health department;
   2. The education and experience of the registered nurse, specified in subsection (B)(1), that would qualify the registered nurse to perform public health nursing services;
   3. A description of the educational activities the local health department plans to provide for the registered nurse to address differences between the education and experience of the registered nurse and the education and experience of a registered nurse who meets the requirements of subsection (B)(2); and
   4. How the waiver would affect public health, safety, or welfare.

D. The Department shall approve or deny a request made as specified in subsection (C):
   1. Within 14 calendar days from the date of the Department's receipt of the request, and
   2. Based on:
      a. The education and experience of the registered nurse,
      b. The activities described in the narrative plan, specified in R9-18-102(A)(1), and
      c. The content of the educational activities described as specified in subsection (C)(3).

E. A registered nurse who is providing direction for public health nursing services within the state of Arizona on the effective date of this Article is exempt from the requirement of subsection (B)(2).

F. A local health department shall ensure that a registered sanitarian provides environmental health services in the designated service area.

R9-18-105. ~~Required records and accounts~~ Record Retention and Review

~~A. The local health department shall maintain for review, inspection and audit the following records, reports and accounts relating to the provision of local health department services:~~
   ~~1. Financial records;~~
   ~~2. Personnel records;~~
   ~~3. Service and client records; and~~
   ~~4. Records relating to funding sources~~.

~~B. Records shall be maintained or stored for three years unless audited prior to that date. If audited, the records shall be retained until any dispute is resolved. All records, data or other documents shall be made available to the Department upon request during normal business hours.~~

~~C. Each applicant shall make a reasonable effort to protect required records from fire, flood and other hazards and safeguard the records from unnecessary deterioration. If any required record, book or other data is destroyed or lost before the prescribed retention period has elapsed, an affidavit shall be prepared and filed with the Department by the applicant listing as accurately as possible the records involved and describing the circumstances under which they were destroyed or lost.~~

~~D. Each local health department shall establish and maintain a uniform system and classification of accounts. Generally acceptable accounting principles and procedures shall be used in measuring, recording and reporting the financial affairs and activities of the applicant.~~

A. A local health department shall maintain for review by the Department all records, reports, and accounts pertaining to the provision of local health department services.

B. A local health department shall maintain or store the documents specified in subsection (A) for five years from the date the local health department submitted an application, unless the Department performs a financial review of local health department services before that date. If the Department performs a financial review, the local health department shall maintain or store the documents until any dispute arising from the financial review is resolved or for five years, whichever is later.

C. Upon request by the Department, a local health department shall make available the documents specified in subsection (A) to the Department during business hours.

D. The Department may require a refund of any funds paid to a local health department under a Per Capita Matching Grant that are expended for purposes not set forth in the narrative plan described in R9-18-102 (A)(1).

~~**R9-18-106. Visitation, inspection and audit**~~

~~**A.** The Department may at any time inquire into the operations of the applicant with respect to the services provided and may conduct or cause to be conducted an on-site inspection in all matters affecting such services during normal business hours.~~

~~**B.** The funds disbursed pursuant to these rules shall be subject to audit. A refund shall be requested by the Department for any funds expended for purposes not set forth in the approved application.~~

~~**R9-18-107.**~~ **R9-18-106.** ~~**Notice to department**~~ **Notice to Department**

~~The applicant shall provide written notice to the Office within 15 calendar days of any change of licensed personnel involved in the local health department services and of any material change in any circumstance upon for which funds were granted.~~
A local health department shall provide written notice to the Department within 30 calendar days of any change in the physician, registered nurse, or sanitarian who are specified in R9-18-104, and of any modification to the narrative plan described in R9-18-102(A)(1).

R9-18-107. Renumbered

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

[R06-352]

PREAMBLE

1. Sections Affected	**Rulemaking Action**
R20-2-701	Amend
R20-2-702	Amend
R20-2-708	Amend
R20-2-709	Amend
R20-2-710	Amend
R20-2-711	Amend
R20-2-714	Amend
R20-2-715	Amend
R20-2-716	Amend
R20-2-717	Amend
R20-2-718	New Section
R20-2-719	New Section
R20-2-750	Amend
R20-2-751	Amend
R20-2-752	Amend
R20-2-753	Amend
R20-2-755	Amend
R20-2-757	Amend
R20-2-758	Repeal
R20-2-759	Amend
Table A	New Table
R20-2-760	Amend
Table 1	Amend
Table 2	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-2065(A)(4) and (D)

Implementing statute: A.R.S. §§ 41-2083 and 41-2122

3. The effective date of the rules:

September 12, 2006

Under A.R.S. § 41-1032(A)(1), the rules, except as noted below, will be effective when filed with the Office of the Secretary of State. Under Laws 2005, Ch 104, standards for motor fuel were changed. An immediate effective date is needed to implement the new standards on November 1, which is the beginning of the winter driving season. The immediate effective date will preserve public health by ensuring greater use of cleaner burning gasoline.

As indicated in the rule text, subsections of R20-2-701**,** R20-2-702, R20-2-751, R20-2-755, and R20-2-759, and Tables 1 and 2 will not become effective until Arizona's State Implementation Plan (SIP) dealing with CARB Phase 3 Reformulated Gasoline and shortening the winter season is approved by the EPA.

4. A list of all previous notices appearing in the *Register* addressing the final rule:

Notice of Rulemaking Docket Opening: 11 A.A.R. 2451, July 1, 2005

Notice of Proposed Rulemaking: 12 A.A.R. 1518, May 12, 2006

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Duane Yantorno

Address: Department of Weights and Measures
4425 W. Olive, Ste. 134
Glendale, AZ 85302

Telephone: (623) 463-9942

Fax: (623) 939-7825

E-mail: Dyantorno@azdwm.gov

6. An explanation of the rule, including the agency's reason for initiating the rule:

In consultation with the Department of Environmental Quality, the Department of Weights and Measures is changing fuel formulation, quality assurance, and other requirements related to CBG (Cleaner Burning Gasoline) and conventional motor fuel to reflect recent legislative changes and industry standards. The Department is also making the rules more clear, concise, and understandable.

The following changes are made so the rules are consistent with recent statutory changes:

- Includes statutory definitions, some of which have been changed for language consistency;
- Clarifies the definition of "gasoline" to exclude E85;
- Clarifies that E85 is a motor fuel rather than gasoline;
- Establishes labeling and dispenser requirements for motor fuel dispensing sites that dispense E85;
- Establishes reporting requirements for producers of E85;
- Includes statutory requirements for biodiesel;
- Prohibits use of MTBE in motor fuel;
- Recognizes a downstream tolerance of a maximum 3.7 weight percent oxygen for fuel ethanol including test method reproducibility;
- Establishes the maximum vapor pressure allowed for Arizona CBG in February and March;
- Shortens the winter oxygenate season to November 1 through January 31 rather than November 2 through March 31;
- Allows use of CARB (California Air Resources Board) phase 3 reformulated gasoline as an alternative standard for motor fuel in the CBG-covered area; and
- Adopts use of the CARBOB (California Reformulated Blendstock for Oxygenated Blending) model for certifying an alternative formulation of AZRBOB (Arizona Reformulated Blendstock for Oxygenated Blending) and fuel ethanol.

The following changes are designed to provide flexibility to the industry, facilitate use of E85, and protect the public and the environment:

- Establishes standards for E85 (fuel ethanol);
- Establishes specifications for fuel ethanol to be used as a blending component with AZRBOB or Arizona CBG;
- Requires producers outside the CBG-covered area to ensure that a motor fuel produced or offered for sale meets motor-fuel specifications and to certify its octane number;
- Reduces the amount of sulfur allowed in Arizona CBG to 80 ppm;
- Requires a registered supplier, third-party terminal, or pipeline that has submitted a quality assurance/quality control plan to the Department to resubmit the plan if significant changes are made to the plan;
- Allows a registered supplier to contract with an independent third party to perform the required quality assurance sampling and testing of AZRBOB after the addition of fuel ethanol, subject to approval by the Director;
- Establishes additional test methodologies for use in certifying Arizona CBG and AZRBOB; and
- Allows use of alternative test methodologies approved by the Director if required correlations are done.

As noted in the text of the rules, the following subsections and Tables will not become effective until EPA approves Arizona's revised State Implementation Plan regarding use of CARB 3 and shortening the winter season.

Section	Subsection Subject Matter	SIP required to be approved
R20-2-701	Definition of "PM" or "Predictive Model Procedures"	CARB 3
R20-2-702(9), (11), and (12)	Materials incorporated by reference	CARB 3
R20-2-751 (A)(6)(a), (b), (c), and (f), (A)(7)(i) and (ii), and (A)(8)	Arizona CBG requirements	CARB 3 and shortening winter season
R20-2-751 (B)	Arizona CBG requirements	Shortening winter season
R20-2-751(D)(2)	Arizona CBG requirements	Shortening winter season
R20-2-751 (E)	Arizona CBG requirements	Shortening winter season
R20-2-751(I)	Arizona CBG requirements	CARB 3 and shortening winter season
R20-2-755(A)(1)(a)	Additional requirements for AZRBOB and downstream oxygenate blending	CARB 3
R20-2-759(C) and (D)	Testing methodologies	CARB 3
Table 1	Type 1 Arizona CBG standards	CARB 3 and shortening winter season
Table 2	Type 2 Arizona CBG standards	CARB 3 and shortening winter season

To facilitate implementation of R20-2-759(D), the Department will develop a substantive policy statement regarding test methods for certification of Arizona CBG and AZRBOB that specifies the procedures the Department will use to determine whether a proposed test method produces results for each fuel parameter that are equal to or better than the precision and accuracy of the designated test methods.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

A copy of the following study, which is available from the Department, was prepared at the direction of the Legislature and was used by the Legislature in amending A.R.S. § 41-2124 in 2004. The Department reviewed and also relied on the study.

Cost, Supply, and Emissions Impacts of Adopting the California Phase 3 Gasoline Standard for Arizona's Cleaner Burning Gasoline Program: A Technical and Economic Analysis of Cleaner Burning Gasoline Supply under HB 2207; MathPro, Inc. (PO Box 34404, West Bethesda, MD 20827-0404) and Meszler Engineering Services (906 Hamburg Drive, Abingdon, MD 21009); December 1, 2005

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The economic, small business, and consumer impact statement does not consider the economic impacts that result from establishing reporting requirements for producers of E85, requiring labels on dispensers of E85, prohibiting MTBE in motor fuel, establishing the maximum vapor pressure allowed for Arizona CBG during February and March, shortening the winter oxygenate season, and adopting use of the CARBOB model for certifying an alternative formulation of AZRBOB. These changes were made by the legislature rather than this rulemaking.

The 2005 federal energy bill spurred the search for a practical alternative motor fuel. This rulemaking clarifies that E85 may be sold or offered for sale within the CBG-covered area. The rulemaking sets standards for E85.

E85 consists of 85% denatured, fuel-grade ethanol and 15% gasoline. The fuel ethanol typically is produced from corn or other grain products but can be produced from agricultural and forestry wastes. The resources used to make fuel ethanol are renewable. The production process leaves the nutritional content of the grain products largely intact and still suitable for use in feeding livestock. E85 has an octane of approximately 105. E85 reduces the incidence of greenhouse emissions and is water soluble, non-toxic, and biodegradable. Increased use of E85 will promote energy independence and benefit farmers who grow grain products and producers of E85. E85 can be used in a "flex-fuel" motor vehicle, which is designed to operate on either gasoline or E85. It is estimated there are approximately 74,000 flex-fuel motor vehicles in Arizona but most are operated on gasoline because E85 is not widely available. There are plans to build a fuel ethanol facility near the town of Maricopa in the near future and to use the production byproducts in a cattle feed lot adjacent to the fuel ethanol facility.

This rulemaking will have economic benefits for those who produce the biomass products used in the production of fuel ethanol and for those who produce the fuel ethanol. It will also have an economic impact on the owner of a flex-fuel motor vehicle because the owner will be able to buy E85 more readily.

Requiring a producer outside the CBG-covered area to ensure that a motor fuel produced or offered for sale meets all motor-fuel specifications and has its octane certified will impose economic costs on only the two producers not currently in compliance with this requirement. Currently, the owner or operator of a motor fuel dispensing site is required to ensure that motor fuel sold or offered for sale meets all motor-fuel specifications. Because there are more than 2,000 motor fuel dispensing sites, the cost of compliance is huge and compliance is difficult for the owner or operator of a motor fuel dispensing site. The rule change places the responsibility for ensuring compliance with motor-fuel specifications on producers, who are in best position to comply and most of whom are already in compliance. This will have a significant economic benefit for consumers and owners or operators of motor fuel dispensing sites by ensuring that they receive the quality of motor fuel they believe they are receiving. It will also reduce the number of complaints received by the Department regarding bad motor fuel. During 2002 through 2005, the Department received 499 complaints about fuel quality. If a consumer inadvertently purchases motor fuel that does not meet motor-fuel specifications, the consumer may experience major engine damage to the consumer's motor vehicle and costs.

Reducing the amount of sulfur allowed in a motor fuel from 500 to 80 ppm ensures that Arizona's standards are consistent with the federal standard. The reduction of sulfur helps reduce ozone precursors. An exception is made for a small refinery. The EPA is requiring that motor fuel contain only 30 ppm on average by later this year. The rule change will have little economic effect because producers already comply with the federal standard.

The rule changes regarding quality assurance/quality control, test methodologies, and use of an independent third party provide increased flexibility to registered suppliers, pipelines, and third-party terminals and ensure that the Department is apprised of the quality assurance/quality control procedures being used. The increased flexibility may provide economic benefits for registered suppliers, pipelines, and third-party terminals. The rule changes may provide increased economic opportunity for independent third parties that contract to do quality assurance/quality control sampling and testing of AZRBOB.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In addition to the changes identified in item 11, word choice and formatting changes were made between the proposed and final rules. Additionally, language was added to clarify the definition of "product transfer document," testing procedures in R20-2-752(H)(1), and the standard used by the Director to approve a QA/QC program under R20-2-752(E), R20-2-753(G), and R20-2-755(I). None of the changes is substantial as defined in A.R.S. § 41-1025.

11. A summary of the comments made regarding the rule and the agency response to them:

An oral proceeding was held on June 12, 2006. Written comments were received from the Western States Petroleum Association (WSPA), Arizona Petroleum Marketers Association (APMA), Dave Smith representing BP, Robert Shuler representing Pinal Energy Ethanol Plant (PEEP), Victor Dugan representing Exxon-Mobil, and EPA, Region IX. A teleconference was held with EPA on July 10, 2006. The comments and the Department's analysis of and response to each follow:

Comment	Department's Analysis	Department's Response
WSPA strongly supports all of the proposed changes.	The Department appreciates the hard work of WSPA members and the significant contribution they made to the development of these rules.	No change

PEEP: The plant referenced in the summary in item 8 of the Preamble is not being built by the City of Maricopa.	The comment is correct. The Notice of Proposed Rulemaking incorrectly indicated that an ethanol plant was being built by the town of Maricopa rather than within the town.	The language in the Preamble is changed to correctly reflect that an ethanol plant is being built within the town of Maricopa.
EPA: EPA is concerned about the Director's discretion in R20-2-759.	The Department determined that having Director discretion regarding approval of alternative testing methods adds needed flexibility. The Department believes it limited the Director's discretion by specifying standards for exercise of the discretion.	The Department clarified that the Director's discretion for approving an alternative test method is limited. Although the Department believes the standard was implied in the proposed rule, the Department specified in the final rule that the Director is required to approve an alternative test method only if the alternative test method has accuracy and precision equal to or better than the approved test method.
APMA thanks the Department for working with the regulated community on the rulemaking and providing clarification regarding biodiesel and other fuels.	The Department appreciates the hard work of APMA members and the significant contribution they made to the development of these rules.	No change
APMA: Which Sections require EPA approval before becoming effective?	The Department understands this is important information for those who must comply with the rules.	The Department added rule text and information in the Preamble regarding subsections that do not become effective until EPA approves the State Implementation Plan.
Exxon-Mobile: There appears to be an inconsistency between the VOC percent in R20-2-751(A)(8) and Table 1.	The Department agrees.	The change was made. The inconsistency was inadvertent. The Department believes that a reasonable reader of the proposed rule would have understood that the inconsistency was inadvertent.
BP: In R20-2-701, we recommend that the final E85 blend meet the same sulfur specification as other gasoline that could be used in a flex-fuel vehicle.	The Department agrees.	The change was made. This change is not substantial because it makes the rule consistent with federal law.
BP: In R20-2-719(A), it is recommended that the sulfur limit of biodiesel or a biodiesel blend be reduced from 500 ppm to 15 ppm starting September 1, 2006.	The Department agrees that this change is needed to meet the new federal requirement at 40 CFR 80.520.	The change was made. Because the rule will go into effect after September 1, 2006, it was not necessary to specify a beginning date.
BP: R20-2-719(A) needs to clearly indicate that it is applicable to both retail and wholesale sales.	The Department believes that the language is clear.	No change

BP: R20-2-719(B) needs to indicate that both the supplier of neat biodiesel and the blender are required to report information to the Department.	The language at issue is statutory. Evidently the legislature did not intend to impose reporting requirements on a supplier of neat biodiesel. A statutory change is required to accomplish what BP requests.	No change
BP: In R20-2-751, we believe that Arizona needs to commit to updating it rules to incorporate the latest materials when they are completed.	The Department recognizes that the update of this material will be important. But the Department cannot incorporate material that is not currently effective. The Department plans to do a rulemaking each year to incorporate the latest version of all materials.	No change
BP: In R20-2-755(A)(1)(a), it appears that the use of the CARBOB model is allowed for both Types 1 and 2 Arizona CBG. The use of the CARBOB model is only appropriate for Type 2 Arizona CBG.	The Department agrees.	The change was made. The reference to Type 1 Arizona CBG was inadvertent because Type 1 Arizona CBG is not an alternative formulation to which the CARBOB model could be applicable. The change is technical rather than substantial because it corrects an inapplicable reference.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

A.R.S. §§ 41-2065(D), 41-2083(C), and 41-2122(B) require the director of the Department of Weights and Measures to consult with the director of the Department of Environmental Quality in making rules regarding quality standards and test methods for motor fuel including oxygenated fuel and approving alternate fuel control measures. This consultation was done.

13. Incorporations by reference and their location in the rules:

ASTM D 975-04c, Standard Specification for Diesel Fuel Oils, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 4806-04a, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 4814-04a, Standard Specification for Automotive Spark-Ignition Engine Fuel, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 5798-99, Standard Specification Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines, reapproved 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 6751-03a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2003, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702.

California Air Resources Board, California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model, as amended April 25, 2001, CARB, P.O. Box 2815, Sacramento, CA 95812, incorporated at R20-2-702.

California Air Resources Board, The California Reformulated Gasoline Regulations, Title 13, California Code of Regulations, Section 2266.5 (Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending), April 9, 2005, CARB, PO Box 2815, Sacramento, CA 95812, incorporated in R20-2-702

California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001, CARB, P.O. Box 2815, Sacramento, CA 95812, incorporated in R20-2-702

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section
R20-2-701. Definitions
R20-2-702. Material Incorporated by Reference
R20-2-708. Oxygenated Fuel Blends
R20-2-709. Retail Oxygenated Fuel Labeling
R20-2-710. Blending Requirements
R20-2-711. Alcohol-oxygenated Gasoline Storage Tank Requirements
R20-2-714. Requirements for ~~Gasoline Products Outside~~ Motor Fuels outside the CBG-covered Area
R20-2-715. Motor Fuel Quality Testing Methods and Requirements
R20-2-716. Sampling and Access to Records
R20-2-717. ~~Hold Open~~ Hold-open Latch Exception
R20-2-718. ~~Renumbered~~ Requirements for the Production or Sale of E85
R20-2-719. ~~Repealed~~ Requirements for the Sale of Biodiesel
R20-2-750. Registration Relating to Arizona CBG or AZRBOB
R20-2-751. Arizona CBG Requirements
R20-2-752. General Requirements for Registered Suppliers
R20-2-753. General Requirements for Pipelines and Third-party Terminals
R20-2-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending
R20-2-757. Product Transfer Documentation; Records Retention
R20-2-758. ~~Adoption of Fuel Certification Models~~ Repealed
R20-2-759. Testing Methodologies
Table A. Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB
R20-2-760. Compliance Surveys
Table 1. Type 1 ~~Gasoline~~ Arizona CBG Standards
Table 2. Type 2 ~~Gasoline~~ Arizona CBG Standards

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-701. Definitions

In addition to the definitions in R20-2-101, the following definitions apply to this Article unless the context otherwise requires:

~~1.~~ "Area A" has the same meaning as in A.R.S. § 49-541.

~~2.~~ "Area B" has the same meaning as in A.R.S. § 49-541.

~~3.~~ "Arizona Cleaner Burning Gasoline" or "Arizona CBG" means a gasoline blend that meets the requirements of this Article for gasoline produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles within the CBG-covered area, except as provided under A.R.S. § 41-2124(K).

~~4.~~ "AZRBOB" or "Arizona Reformulated Blendstock for Oxygenate Blending" means a ~~petroleum-derived motor fuel~~ combination of gasoline blendstocks that is intended to be or ~~is~~ represented to constitute Arizona CBG upon the addition of a specified ~~type and percentage~~ amount (or range of ~~percentages~~ amounts) of ~~oxygenate~~ fuel ethanol after the ~~fuel has been~~ blendstock is supplied from the ~~production or import~~ facility at which it was produced or imported.

~~5.~~ "Batch" means a quantity of ~~gasoline~~ motor fuel or AZRBOB that is homogeneous for ~~those~~ motor fuel properties specific for the motor fuel standards applicable to that motor fuel or AZRBOB ~~that are specified for Arizona CBG certified under R20-2-751~~.

~~6.~~ "Beginning of transport" means the point at which:

~~a.~~ A registered supplier relinquishes custody of Arizona CBG or AZRBOB to a transporter or ~~a~~ third-party terminal; or

~~b.~~ A registered supplier ~~who~~ that retains custody of Arizona CBG or AZRBOB ~~commences~~ begins transfer of the Arizona CBG or AZRBOB into a vessel, tanker, or other container for transport to the ~~CBG covered~~ CBG-covered area.

"Biodiesel" means a diesel fuel substitute that satisfies all of the following:

Is produced from nonpetroleum renewable resources if the qualifying volume of nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations sections 2281 and 2282 in effect on January 1, 2000.

Meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.

The use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.

Is sold, offered or exposed for sale as a neat product or blended with diesel fuel. A.R.S. § 41-2051(1).

~~7.~~ "Blendstock" means any liquid compound that is blended with ~~other~~ another liquid ~~compounds~~ compound to produce a motor fuel, including Arizona CBG. ~~Deposit control additives~~ A deposit-control or ~~other~~ similar ~~additives~~ additive registered under 40 CFR 79 ~~are~~ is not ~~considered blendstocks~~ a blendstock.

"CARB" means the California Air Resources Board.

"CARBOB" means California Reformulated Gasoline Blendstock for Oxygenate Blending.

"CARBOB Model" means the procedures incorporated by reference in R20-2-702(12).

"CARB Phase 2 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(8).

"CARB Phase 3 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(9).

~~8.~~ "~~CBG covered~~ CBG-covered area" means a county with a population of 1,200,000 or more persons according to the most recent United States decennial census and any portion of a county ~~contained in~~ within area A.

~~9.~~ "Conventional gasoline" means gasoline that conforms ~~with~~ to the requirements of this Chapter for sale or use in Arizona, but does not meet the requirements of Arizona CBG or AZRBOB.

~~10. "Co-solvent" means a chemical compound soluble in, and added to, a methanol-gasoline blend to prevent phase separation, reduce corrosion, and improve lubrication. A co-solvent may be any one or a mixture of the following:~~

~~a. Ethanol,~~

~~b. Any propanol,~~

~~c. Any butanol, or~~

~~d. Gasoline grade tertiary butyl alcohol.~~

~~11.~~ "Designated alternative limit" means a motor fuel property specification, expressed in the nearest part per million by weight for sulfur content, nearest 10th percent by volume for aromatic hydrocarbon content, nearest 10th percent by volume for olefin content, and nearest degree Fahrenheit for T90 and T50, that is assigned by a registered supplier to a final blend of Type 2 Arizona CBG or AZRBOB for purposes of compliance with the Predictive Model Procedures.

~~12.~~ "Diesel" or "diesel fuel" means a refined middle ~~distallate~~ distillate for use as a motor fuel in a compression-ignition internal-combustion engine.

~~13.~~ "Downstream oxygenate blending" means combining AZRBOB and ~~an oxygenate~~ fuel ethanol to produce fungible Arizona CBG.

"Duplicate" means a portion of a sample that is treated the same as the original sample to determine the accuracy and precision of an analytical method.

"E85" means a fuel ethanol gasoline blend that meets the specifications in ASTM D 5798, which is incorporated by reference in R20-2-702.

"EPA" means the United States Environmental Protection Agency.

~~14.~~ "EPA waiver" means a waiver granted by the Environmental Protection Agency as described in "Waiver Requests under Section 211(f) of the Clean Air Act," which is incorporated by reference in R20-2-702.

~~15.~~ "Final distribution facility" means a stationary ~~gasoline~~ motor-fuel transfer point ~~from~~ at which motor fuel or AZRBOB is transferred into a cargo tank truck, pipeline, or other delivery vessel from which the motor fuel or AZRBOB will be delivered to a ~~gasoline~~ motor-fuel dispensing site. A cargo tank truck is a final distribution facility if the cargo tank truck transports motor fuel or AZRBOB and carries documentation that the type and amount or range of amounts of oxygenates designated by the registered supplier will be or have been blended directly into the cargo tank truck before delivery of the resulting motor fuel to ~~the~~ ~~gasoline~~ a motor-fuel dispensing site.

"Fleet" means at least 25 motor vehicles owned or leased by the same person.

"Fleet vehicle fueling facility" means a facility or location where a motor fuel is dispensed for final use by a fleet.

~~16. "Fuel" means any material capable of releasing energy or power by combustion or other chemical or physical reaction.~~

~~17.~~ "~~Fuel property" means any characteristic listed in R20-2-751(A)(1) through (A)(7), R20-2-751(B)(1) through (B)(7), or Table 2.~~

"Fuel ethanol" means denatured ethanol that meets the specifications in ASTM D 4806, which is incorporated by reference in R20-2-702.

"Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than .05 grams of lead for each United States gallon, is produced, refined, manufactured, blended, distilled, or compounded from petroleum, natural gas, oil, shale oils or coal, and other flammable liquids free from undissolved water, sediment, or suspended matter, with or without additives, and is commonly used as a fuel for spark-ignition internal-combustion engines. Gasoline does not include diesel fuel or E85.

~~18.~~ "Importer" means any person ~~who~~ that assumes title or ownership of Arizona CBG or AZRBOB produced by an unregistered supplier.

"Manufacturer's proving ground" means a facility used only to develop complete motor vehicles, that are not currently available on the retail market, for an automotive manufacturer.

~~19.~~ "Motor fuel" means petroleum or a petroleum-based substance ~~that is~~ such as motor gasoline, any grade of oxygenated gasoline, aviation ~~gasoline~~ fuel, number one or number two diesel fuel~~,~~ including neat biodiesel or a biodiesel blend, and E85 ~~or any grade of oxygenated gasoline~~ typically used in the operation of a motor engine.

"Motor fuel dispensing site" means a facility or location where a motor fuel is dispensed into commerce for final use.

"Motor fuel property" means any characteristic listed in R20-2-751(A)(1) through (A)(7), R20-2-751(B)(1) through (B)(7), Table 1, Table 2, or any other motor fuel standard referenced in this Article.

~~20~~. "Motor vehicle" means ~~any~~ a vehicle equipped with a spark-ignited or compression-ignition internal-combustion engine except:

~~a.~~ ~~Vehicles~~ A vehicle that ~~run~~ runs on~~,~~ or ~~are~~ is guided by~~,~~ rails; or

~~b.~~ ~~Vehicles~~ A vehicle that ~~are~~ is designed primarily for travel through air or water.

"Motor vehicle racing event" means a competition, including related practice and qualifying and demonstration laps that uses unlicensed motor vehicles designed and manufactured specifically for racing and is conducted on a public or private racecourse for the entertainment of the general public.

~~21.~~ "MTBE" means methyl tertiary butyl ether.

"Neat" means straight or 100 percent; not blended with gasoline.

~~22.~~ "NOx" means oxides of nitrogen.

~~23.~~ "Octane," "octane number," or "octane rating" mean the anti-knock characteristic of gasoline as determined by the resultant arithmetic test average of ASTM D 2699 and ASTM D 2700.

~~24.~~ "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, ~~which is able to~~ that may be used as a fuel or as a gasoline blending component and is approved as a blending agent under the provisions of a waiver issued by the EPA under 42 U.S.C. 7545(f).

~~26.~~ "Oxygenate blender" means ~~any~~ a person ~~who~~ that owns, leases, operates, controls, or supervises an oxygenate-blending facility, or ~~who~~ that owns or controls the blendstock or gasoline used, or the gasoline produced, at an oxygenate-blending facility.

~~25.~~ "Oxygenate-blending facility" means any location (including a truck) where ~~oxygenate~~ fuel ethanol is added to Arizona CBG or AZRBOB~~,~~ and the resulting quality or quantity of Arizona CBG is not altered in any other manner except for the addition of ~~deposit control additives~~ a deposit-control or ~~other~~ similar ~~additives~~ additive registered under 40 CFR 79.

~~27.~~ "Oxygenated Arizona CBG" means Arizona CBG with a minimum oxygen content of ~~3.5~~ 3.7 wt. % or another minimum oxygen content approved by the Director under A.R.S. § 41-2124, that is produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles in the CBG-covered area from November 1 through ~~March~~ January 31 of each year.

~~28.~~ "Oxygen content" means the percentage by weight of oxygen contained in a gasoline oxygenate blend as calculated by ASTM ~~D4815-94a~~ D 4815.

~~29.~~ "Performance standard" means the VOC and NOx emission reduction percentages in R20-2-751(A)(8)~~, R20-2-751(A)(9),~~ and Table 1.

~~30.~~ "Pipeline" means a transporter ~~who~~ that owns or operates an interstate common-carrier pipe to transport motor fuels into Arizona.

~~31.~~ "PM" or "Predictive Model Procedures" means the California Predictive Model~~,~~ and ~~California Air Resources Board's~~ CARB's "California Procedures for Evaluating Alternative ~~Specification~~ Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995, and "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as amended April 25, 2001, both of which are ~~which is~~ incorporated by reference in ~~R20-2-758~~ R20-2-702. This definition will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

~~32.~~ "PM alternative gasoline formulation" means a final blend of Arizona CBG or AZRBOB that is subject to a set of PM alternative specifications.

~~33~~. "PM alternative specifications" means the specifications for the following fuel properties, as determined ~~under~~ using a testing methodology in R20-2-759:

~~a.~~ Maximum RVP, expressed in the nearest 100th of a pound per square inch;

~~b.~~ Maximum sulfur content, expressed in the nearest part per million by weight;

~~c.~~ Maximum olefin content, expressed in the nearest 10th of a percent by volume;

~~d.~~ Minimum and maximum oxygen content, expressed in the nearest 10th of a percent by weight;

~~e.~~ Maximum T50, expressed in the nearest degree Fahrenheit;

~~f.~~ Maximum T90, expressed in the nearest degree Fahrenheit; and

~~g.~~ Maximum aromatic hydrocarbon content, expressed in the nearest 10th of a percent by volume.

~~34.~~ "PM averaging compliance option" means, with reference to a specific fuel property, the compliance option for PM alternative gasoline formulations by which final blends of Arizona CBG and AZRBOB are assigned designated alternative limits under R20-2-751~~(F),~~ (G), ~~and~~ (H), and (I).

~~35.~~ "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.

~~36.~~ "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.

~~37.~~ "PM flat limit compliance option" means, with reference to a specific fuel property, the compliance option that each gallon of gasoline must meet for ~~the~~ that specified fuel property as contained in the PM alternative specifications.

~~38.~~ "Produce" means:

~~a.~~ Except as otherwise provided ~~in subsections (b) or (c)~~, to convert a liquid compound that is not Arizona CBG or AZRBOB into Arizona CBG or AZRBOB. If a person blends ~~blendstocks~~ a blendstock that ~~are~~ is not Arizona CBG or AZRBOB with Arizona CBG or AZRBOB acquired from another person, and the resulting blend is Arizona CBG or AZRBOB, the person conducting the blending produces only the portion of the blend not previously Arizona CBG or AZRBOB. If a person blends Arizona CBG or AZRBOB with other ~~of~~ Arizona CBG or AZRBOB in accordance with this Article, without the addition of ~~blendstocks~~ a blendstock that ~~are~~ is not Arizona CBG or AZRBOB, that person is not a producer of Arizona CBG or AZRBOB.

~~b.~~ If a person supplies Arizona CBG or AZRBOB to a refiner ~~who~~ that agrees in writing to further process the Arizona CBG or AZRBOB at the refiner's refinery and be treated as the producer of ~~the~~ Arizona CBG or AZRBOB, the refiner is ~~deemed~~ the producer of the Arizona CBG or AZRBOB.

~~c.~~ If an oxygenate blender blends oxygenates into AZRBOB supplied from a gasoline production ~~facility~~ or import facility, and does not alter the quality or quantity of the AZRBOB or the quality or quantity of the resulting Arizona CBG certified by a registered supplier in any other manner except for the addition of ~~deposit control additives~~ a deposit-control or ~~other~~ similar ~~additives~~ additive, ~~then~~ the producer or importer of the AZRBOB, rather than the oxygenate blender, ~~is not a producer of any portion of the resulting Arizona CBG, and the producer or importer of the AZRBOB~~ is considered the producer or importer of the full volume of the resulting Arizona CBG.

~~39.~~ "Producer" means a refiner or other person ~~who~~ that produces a motor fuel, including Arizona CBG or AZRBOB.

~~40.~~ "Production facility" means a facility ~~where~~ at which a motor fuel, including Arizona CBG or AZRBOB, is produced. Upon request of a producer, the Director may designate, as part of the producer's production facility, a physically separate bulk storage facility that:

~~a.~~ Is owned or leased by the producer~~,~~ ;

~~b.~~ Is operated by or at the direction of the producer~~,~~ ; and

~~c.~~ Is used to store or distribute motor fuels, including Arizona CBG or AZRBOB, that ~~is~~ are supplied only from the production facility.

"Product transfer document" means a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other paper that is provided by the transferor at the time motor fuel is delivered and evidences that custody or title of the motor fuel is transferred to the transferee. A product transfer document is not required when motor fuel is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility.

41. "Refiner" means ~~any~~ a person ~~who~~ that owns, leases, operates, controls, or supervises a refinery in the United States, including its trust territories.

43. "Refinery" means a facility that produces a liquid ~~fuels~~ fuel, including Arizona CBG or AZRBOB, by distilling petroleum, or a transmix facility that produces a motor fuel offered for sale or sold into commerce as a finished motor fuel.

44. "Registered supplier" means ~~any~~ a producer or importer ~~who~~ that supplies Arizona CBG or AZRBOB and is registered with the Director under R20-2-750.

45. "Reproducibility" means the testing method margin of error as provided in the ASTM specification or other testing method required under this Article.

~~46. "Service station" means a retail business operated for the purpose of dispensing motor fuel into the fuel tanks of motor vehicles.~~

42. "RVP" means Reid vapor pressure equivalent of gasoline or blendstock as measured according to ASTM D 5191.

47. "Supply" means to provide or transfer motor fuel to a physically separate facility, vehicle, or transportation system.

"Test result" means any document that contains a result of testing including all original test measures, all subsequent test measures that are not identical to the original test measure, and all worksheets on which calculations are performed.

48. "Third-party terminal" ~~or "3rd-party terminal"~~ means an owner or operator of a gasoline storage tank facility ~~who~~ that accepts custody, but not ownership, of Arizona CBG or AZRBOB from a registered supplier, oxygenate blender, pipeline, or other third-party terminal and relinquishes custody of the Arizona CBG or AZRBOB to a transporter ~~for interstate transport into Arizona~~.

49. "Transmix" means a mixture of petroleum distillate fuel and gasoline that does not meet the Arizona standards for either petroleum distillate fuels or gasoline.

"Transmix facility" means a facility at which transmix is processed into its components and then the components either are combined with a finished product or further processed to produce a finished motor fuel.

50. "Transporter" means ~~any~~ a person ~~who is not a producer or importer and who:~~ that

~~a.~~ ~~Causes~~ causes ~~transport of~~ motor fuels, including Arizona CBG or AZRBOB, to be transported into or within Arizona~~; and~~

~~b. Does not acquire title or assume ownership of the Arizona CBG or AZRBOB~~.

51. "Type 1 ~~gasoline~~ Arizona CBG" means a gasoline that meets the standards contained in R20-2-751(A) and Table 1.

52. "Type 2 ~~gasoline~~ Arizona CBG" means a gasoline that meets the standards contained in Table 2~~,~~ or is certified using the PM according to the requirements of R20-2-751~~(F),~~ (G), ~~and~~ (H), and (I), and:

~~a.~~ Meets the requirements in R20-2-751(A) beginning ~~April~~ February 1 through October 31 of each year; and

~~b.~~ Meets the requirements in R20-2-751(B) beginning November ~~2~~ 1 through ~~March~~ January 31 of each year.

"Vehicle emissions control area" has the same meaning as in A.R.S. § 49-541 except that a vehicle emissions control area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

53. "VOC" means volatile organic compound.

"Winter" means November 1 through January 31.

R20-2-702. Material Incorporated by Reference

A. The following documents are incorporated by reference and on file with the Department. The documents incorporated by reference contain no future editions or amendments.

1. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 1, 1998 Edition, Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, D.C. 20402-9328.
2. ASTM D ~~975-98b~~ 975-04c, Standard Specification for Diesel Fuel Oils, ~~published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, 2001~~2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
3. ASTM D 4806-04a, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

~~3.~~4. ASTM D ~~4814-00~~ 4814-04a, Standard Specification for Automotive Spark-Ignition Engine Fuel, ~~published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.02, 2001~~ 2004, American

Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

~~4.~~ 5. Waiver Requests under Section 211(f) of the Clean Air Act, (August 22, 1995 edition), United States Environmental Protection Agency, Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code ~~6406J~~ 6406-J, Washington, D.C. 20460.

6. ASTM D 5798-99, Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines, re-approved 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

7. ASTM D 6751-03a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2003, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

8. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," adopted April 20, 1995. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.

9. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as amended April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.

10. The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.

11. California Air Resources Board, The California Reformulated Gasoline Regulations, Title 13, California Code of Regulations, Section 2266.5 (Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending), as of April 9, 2005. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.

12. California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.

B. Subsections (A)(9), (A)(11), and (A)(12) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

R20-2-708. Oxygenated Fuel Blends

A person ~~who~~ that has custody of gasoline blended with an oxygenate shall ensure that the amount of oxygenate does not exceed the amount allowed by EPA waivers, Section 211(f) of the Clean Air Act, and A.R.S. § 41-2122. The maximum oxygen content of gasoline shall not exceed 3.7 percent by weight for fuel ethanol and as specified in A.R.S. § 41-2122 for other oxygenates. ~~Except as allowed by EPA waivers, gasolines blended with methanol shall contain a corrosion inhibitor in an amount specified by the manufacturer of the inhibitor. Any gasoline blend containing methanol shall contain a co-solvent in an amount equal to or greater than the amount allowed by EPA waivers for gasolines within the oxygen limits allowed.~~

R20-2-709. Retail Oxygenated Fuel Labeling

A. ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that a ~~service station~~ motor fuel dispenser that offers gasoline containing ~~an oxygenate, or combination of oxygenates,~~ fuel ethanol that results in a gasoline blend containing 1.5~~%~~ percent or more by weight of oxygen is clearly labeled with the ~~oxygenate~~ fuel ethanol volume information. ~~If only one oxygenate is blended into a gasoline, each~~ Each face of each motor fuel dispenser shall be clearly labeled with the oxygenate volume information if the percent by volume is~~:~~

~~1. More than 0.3% by volume of methanol,~~

~~2. More~~ more than 4.3~~%~~ percent by volume of fuel ethanol~~,~~

~~3. More than 8.3% by volume of MTBE, or~~

~~4. Any other oxygenate or combination of oxygenates at a level that requires an EPA waiver~~.

B. ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that labels required under subsection (A) are displayed on the upper 60~~%~~ percent of each face of each motor fuel dispenser. The label indicating the maximum percent by volume of ~~each~~ oxygenate contained in the oxygenated fuel shall state:

~~1.~~ "Contains up to _____ % fuel ethanol~~;~~."

~~2. Contains up to _____ % methanol and _____% co-solvent;~~

~~3. Contains up to _____ % ether (MTBE); or~~

~~4. Contains up to _____ % other (specify name of oxygenate).~~

C. In the CBG-covered area and area B, ~~a service station~~ the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each ~~service station~~ motor fuel dispenser ~~also~~ contains the following statement: "This gasoline is oxygenated and will reduce carbon monoxide emissions from motor vehicles." The statement may be printed on the label required in subsection (B) or on a separate label. If the statement is printed on a separate label, the label shall be displayed next to the label required in subsection (B).

~~**D.** A service station owner or operator shall ensure that any other oxygenate blended with gasoline is disclosed in the format described in subsections (B) and (C).~~

~~**E.**~~**D.** ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that:

1. The label required by subsection (B) is clean, legible, and visible at all times;
2. The label is printed in black or white block letters on a sharply contrasting background; and
3. The lettering on labels required by subsections (B) and (C) is no less than 1/4".

R20-2-710. Blending Requirements

A. A person ~~who~~ that has custody of or transports an oxygenated gasoline blend shall ensure ~~than~~ that no neat oxygenate blending occurs at a ~~service station~~ motor fuel dispensing site or fleet ~~location~~ vehicle fueling facility.

B. If a ~~service station~~ motor fuel dispensing site storage tank contains an oxygenated gasoline blend that does not contain the amount of oxygen required by A.R.S. §§ 41-2122, 41-2123, 41-2125, or R20-2-751, the ~~service station~~ owner or operator of the motor fuel dispensing site shall do one of the following:

1. Add gasoline that contains no more than 20~~%~~ percent by volume of ~~any~~ the same oxygenate to the non-compliant oxygenated gasoline blend;
2. Add a gasoline blend that dilutes the non-compliant oxygenated gasoline blend to the level of oxygen content required by A.R.S. §§ 41-2122, 41-2123, 41-2125, or R20-2-751; or
3. Empty the storage tank and replace the non-compliant oxygenated gasoline blend with a required oxygenate blend.

R20-2-711. Alcohol-oxygenated Gasoline Storage Tank Requirements

A. Before a person adds an alcohol-oxygenated gasoline into a storage tank, the person shall:

1. Test the storage tank for the presence of water and, if any water is detected, remove ~~it~~ the water from the storage tank; and
2. Install a fuel ~~filters~~ filter designed for use with alcohol-oxygenated gasoline in the fuel line of all motor fuel dispensers that dispense alcohol-oxygenated gasoline ~~blends~~.

B. If water ~~of a mixture of alcohol and water~~ is detected in a storage tank or in an alcohol-oxygenated gasoline ~~at any time~~ in a storage tank, the owner or operator shall empty the storage tank.

R20-2-714. Requirements for ~~Gasoline Products Outside~~ Motor Fuels outside the CBG-covered Area

A. A person ~~who~~ that owns or operates a ~~service station~~ motor fuel dispensing site or transmix or production facility outside the CBG-covered area shall ensure that ~~gasoline and gasoline-oxygenate blends~~ a motor fuel offered for sale at ~~a service station~~ the motor fuel dispensing site or transmix or production facility ~~outside the CBG-covered area meet~~ meets all the ~~ASTM D 4814-00 requirements~~ appropriate specifications in R20-2-702 except:

1. ~~The minimum vapor pressure shall be 6.4 pounds per square inch;~~
2. ~~2.~~ From May 1 through September 30, gasoline shall meet the specifications in ASTM D 4814-04a except maximum vapor pressure shall be 9.0 pounds per square inch;
3. ~~3.~~2. For gasoline blends, the vapor pressure may be no more than one pound per square inch greater than the vapor pressures established by ASTM D ~~4814-00~~ 4814-04a during:
   a. May 1 through September 15, if the ~~base fuel~~ gasoline-fuel ethanol blend meets the requirements of ASTM D ~~4814-00~~ 4814-04a, the volatility requirements of subsection ~~(A)(2)~~ (A)(1), and the final gasoline-fuel ethanol blend contains at least nine percent fuel ethanol by volume but does not exceed the volume specified in EPA waivers; and
   b. September 16 through April 30, if the ~~base fuel~~ gasoline-fuel ethanol blend meets the requirements of ASTM D ~~4814-00~~ 4814-04a and the final gasoline-fuel ethanol blend contains at least 1.5 percent fuel ethanol by weight ~~and~~ but does not exceed the volume specified in EPA waivers.

B. ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that the finished gasoline is visually free of water, sediment, and suspended matter and is clear and bright at ambient temperature or 70° F (21° C), whichever is greater.

C. ~~A service station~~ The owner or operator of a motor fuel dispensing site or transmix or production facility shall ensure that the minimum octane rating determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method, is:

1. 87 for unleaded or regular;
2. 88 for mid-grade, extra, or any other gasoline with an octane rating of 88 or higher; and
3. 90 for super, high performance, premium, or any other gasoline with an octane rating of 90 or higher.

D. Prohibited activities regarding a motor fuel sold or offered for sale outside the CBG-covered area.

1. The owner or operator of a motor fuel dispensing site shall not sell or offer for sale from the motor fuel dispensing site storage tank a product that is not a motor fuel;
2. The owner or operator of a motor fuel dispensing site or transmix or production facility shall not sell or offer for sale a motor fuel that contains more than 0.3 volume percent MTBE or more than 0.1 weight percent oxygen from all other ethers or alcohols as listed in A.R.S. § 41-2122.
3. A transporter shall not deliver to a motor fuel dispensing site or place in a motor fuel dispensing site storage tank a product that is not motor fuel.

R20-2-715. Motor Fuel Quality Testing Methods and Requirements

A. Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, ~~a person testing a gasoline blend~~ the producer of a motor fuel shall ~~use~~ test the motor fuel for its motor fuel properties using the methodologies in R20-2-702 and ensure that the motor fuel ~~and meet~~ meets the ~~test requirements of ASTM D 4814-00~~ applicable specifications in the material incorporated by reference in R20-2-702.

B. Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the methodologies and meet the ~~test requirements~~ specifications of ASTM D ~~975-98b~~ 975-04c.

C. The owner or operator of a transmix or production facility shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating determined and certified in accordance with 16 CFR 306 using the average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method. The owner or operator of a motor fuel dispensing site shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating posted in accordance with 16 CFR 306.

R20-2-716. Sampling and Access to Records

A. The Department shall obtain motor fuel samples for testing from:
1. The same motor fuel dispenser used for sales to customers;
2. The same motor fuel dispenser used for dispensing motor fuel into fleet vehicles;
3. A bulk storage facility;
4. A ~~common carrier~~ pipeline having custody of motor fuel, including Arizona CBG or AZRBOB;
5. A transporter of motor fuel, including Arizona CBG or AZRBOB;
6. A final distribution facility;
7. A third-party terminal having custody of motor fuel, including Arizona CBG or AZRBOB; ~~or~~
8. An oxygenate blender or registered supplier~~.~~ ; or
9. A transmix or production facility.

B. ~~A person required by this Article to~~ An owner or operator of a motor fuel dispensing site, pipeline, third-party terminal, or storage, transmix, production, or distribution facility, or a transporter, registered supplier, or oxygenate blender shall maintain for five years records relating to ~~the production, importation~~ producing, importing, blending, ~~transport, distribution, or delivery~~ transporting, distributing, delivering, testing, or storing ~~of~~ motor fuels, including Arizona CBG or AZRBOB, and shall ~~ensure that~~ make the records ~~are~~ available for Department inspection upon request.

R20-2-717. Hold-open Latch Exception

If ~~a service station~~ an owner or operator of a motor fuel dispensing site has a motor fuel nozzle equipped with a hold-open latch, the owner or operator shall ensure that the latch ~~shall operate~~ operates according to the manufacturer's specifications.

R20-2-718. ~~Renumbered~~ Requirements for the Production or Sale of E85

A. Requirements applicable statewide.
1. A producer of E85 or the owner or operator of a motor fuel dispensing site that dispenses E85 shall ensure that the E85 sold or offered for sale in Arizona meets all the specifications in ASTM D 5798-99.
2. An owner or operator of a motor fuel dispensing site shall ensure that both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that indicate E85 is not gasoline and is intended for use only in a flexible-fuel vehicle, and stating, "Check your owner's manual to ensure that this fuel can be used in your vehicle."
3. An owner or operator of a motor fuel dispensing site shall ensure that any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements in R20-2-203.
4. A producer of E85 shall report to the Department, by the 15th of the month following the production of E85, the following information regarding the E85 production:
   a. The amount of fuel ethanol used during the previous month,
   b. The amount of gasoline used during the previous month,
   c. The total amount of E85 produced during the previous month,
   d. The total amount of E85 sold during the previous month,
   e. The fuel quality properties for the gasoline and fuel ethanol components making up each batch of E85, and
   f. The fuel quality properties of each batch of final E85 blend.

B. Requirements applicable in the CBG-covered area.
1. A producer of E85 for sale in the CBG-covered area shall use Arizona CBG or AZRBOB as the gasoline portion of the E85 blend.
2. A producer of E85 for sale in the CBG-covered area shall ensure that the fuel ethanol used meets the standard in R20-2-751(C).

R20-2-719. ~~Repealed~~ Requirements for the Sale of Biodiesel

A. A person shall not sell or offer or expose for sale:
1. Biodiesel that is not tested or does not meet the specifications established by ASTM D 6751,

2. A blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D 975-04c, or
3. Biodiesel or a blend of biodiesel and diesel fuel for use in Area A that contains sulfur in excess of 15 ppm.

B. *A person who blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:*

1. *The percentage of biodiesel in a final blend.*
2. *The volume of the finished product.*
3. *For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.*
4. *For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:*
   a. *Sulfur content.*
   b. *Aromatic hydrocarbon content.*
   c. *Cetane number.*
   d. *Specific gravity.*
   e. *American petroleum institute gravity.*
   f. *The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.* A.R.S. § 41-2083(L).

C. A person required to submit a report under subsection (B) shall use a form prescribed by the Director, certify the truthfulness and accuracy of the data submitted, and consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.

D. A person shall label a dispenser at which biodiesel is dispensed in a manner that notifies other persons of the volume percentage of biodiesel in the finished product and with the statement: "This fuel contains biodiesel. Check the owner's manual or with your engine manufacturer before using."

R20-2-750. Registration Relating to Arizona CBG or AZRBOB

A. Each of the following shall register with the Director ~~prior to~~ before ~~the first date that the person will produce, import~~ producing, importing, or ~~obtain~~ obtaining custody of Arizona CBG or AZRBOB:
1. A refiner ~~who~~ that produces Arizona CBG or AZRBOB;
2. An importer ~~who~~ that imports Arizona CBG or AZRBOB;
3. An oxygenate blender ~~who~~ that blends oxygenate with AZRBOB to produce Arizona CBG; or
4. A pipeline or third-party terminal ~~who~~ that has custody of Arizona CBG or AZRBOB.

B. A person listed in subsection (A) shall register on a form prescribed by the Director and ~~shall~~ include the following information:
1. Business name, business address, and contact name or position title and telephone number;
2. For each ~~separate~~ refinery ~~and~~ or oxygenate blending facility, the facility name, physical location, contact name or position title and~~,~~ telephone number, and type of facility;
3. For each ~~separate~~ refinery, ~~and~~ oxygenate blending facility, ~~and for each~~ or importer:
   a. The location of the records required under this Article. If records are kept off-site, the primary off-site storage facility name, physical location, and contact name or position title~~,~~ and telephone number; and
   b. If an independent laboratory is used to meet the requirements of R20-2-752(F), the name~~,~~ and address of the independent laboratory, and contact name~~,~~ or position title and telephone number ~~of the independent laboratory.~~ ;
4. If required under 40 CFR 80.76(d), the EPA registration number; and
5. A statement of ~~the registrant's~~ consent permitting the Department or its authorized agent to collect samples and access records as provided in R20-2-716.

C. ~~Changes to any information in~~ A person registered under subsection (B) shall ~~be sent to~~ notify the Director ~~not later than~~ within 10 days after the effective date of ~~the~~ a change in any of the information provided under subsection (B).

D. If a refiner, importer, or oxygenate blender fails to register under this Section, all Arizona CBG or AZRBOB produced by the refiner or oxygenate blender or imported by the importer and transported to the CBG-covered area is presumed ~~noncomplying~~ to be noncompliant from the date that ~~the~~ registration should have occurred.

E. The Department shall maintain a ~~listing~~ list of all registered suppliers.

R20-2-751. Arizona CBG Requirements

A. General fuel property and performance requirements. In addition to the other requirements of this Article and except as provided in subsection (B), all Arizona CBG shall meet the following requirements and for any fuel property not specified, shall meet the requirements in ASTM D 4814-04a. The dates in this subsection are compliance dates for ~~service station operators~~ the owner or operator of a motor fuel dispensing site or a ~~and~~ fleet ~~owners~~ vehicle fueling facility.

~~**Fuel Property/Performance Standard – Limits**~~

1. Sulfur: ~~500~~ 80 ppm by weight (max)

2. Aromatics: 50~~%~~ percent by volume (max)
3. Olefins: 25~~%~~ percent by volume (max)
4. E200: 70-30~~%~~ percent volume
5. E300: 100-70~~%~~ percent volume
6. Maximum Vapor Pressure
   a. October 1 - ~~March~~ January 31: 9.0 pounds per square inch (psi)
   b. February: 13.5 psi
   c. March: 11.5 psi
   ~~b.~~ d. April: 10.0 psi
   ~~c.~~ e. May: 9.0 psi
   ~~d.~~ f. June 1 - September 30: 7.0 psi for CARB Phase 2 gasoline and 7.2 psi for CARB Phase 3 gasoline
7. Oxygen and Oxygenates
   a. Minimum Content:
      i. November 1 - ~~March~~ January 31: 10~~%~~ percent fuel ethanol by volume. If A.R.S. § 41-2124(E) petition in effect: 2.7~~%~~ percent oxygen by weight ~~(other than ethanol)~~ as approved by the Director.
      ii. ~~April~~ February 1 - October 31: 0~~%~~ percent by weight (any oxygenate).
   b. The maximum oxygen content shall not exceed ~~4.0%~~ 3.7 percent by weight for fuel ethanol and ~~3.5% by weight~~ as specified in A.R.S. § 41-2122 for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.
   c. Arizona CBG shall not contain more than 0.3 volume percent MTBE nor more than 0.1 weight percent oxygen from all other ethers or alcohols listed in A.R.S. § 41-2122.
8. Type 1 Arizona CBG shall meet the Federal Complex Model VOC ~~Emissions Reduction Percentage~~ emissions reduction percentage May 1 through September 15: ~~></~~ ~~25.0%~~ ≥27.5 percent (Federal Complex Model settings: Summer, Area Class B, Phase 2). Type 2 Arizona CBG shall meet CARB Phase 2 or Phase 3 PM requirements.

B. Wintertime requirements. In addition to the other requirements of this Article, the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility shall ensure that beginning November ~~2~~ 1 through ~~March~~ January 31 of each year, all Arizona CBG ~~shall meet~~ meets the following fuel property requirements. ~~The dates in this subsection are compliance dates for service station operators and fleet owners.~~

	~~Fuel Property~~	~~Limits~~
~~1.~~	~~Sulfur~~	~~80 ppm by weight (max)~~
~~2.~~	~~Aromatics~~	~~30% by volume (max)~~
~~3.~~	~~Olefins~~	~~10% by volume (max)~~
~~4.~~	~~90% Distillation Temp. (T90)~~	~~330° F (max)~~
~~5.~~	~~50% Distillation Temp. (T50)~~	~~220° F (max)~~
~~6.~~	~~Vapor Pressure~~	~~9.0 psi (max)~~
~~7.~~	~~Oxygenate - Ethanol~~	

1. Sulfur: 80 ppm by weight (max);
2. Aromatics: 30% by volume (max);
3. Olefins: 10% by volume (max);
4. 90% Distillation Temp. (T90): 330° F (max);
5. 50% Distillation Temp. (T50): 220° F (max);
6. Vapor pressure: 9.0 psi (max); and
7. Oxygenate - Fuel ethanol;
   a. Minimum oxygenate content - 10~~%~~ percent fuel ethanol by volume;

b. Maximum oxygen content - ~~4.0%~~ 3.7 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 41-2123~~.~~ ; and

c. Alternative ~~oxygenates~~ minimum fuel ethanol content may be used if approved by the Director under A.R.S. § 41-2124(D).

C. Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM D 4806-04a and the following:

1. A sulfur content not exceeding 10 ppm by weight,
2. An olefins content not exceeding 0.5 percent by volume, and
3. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.

~~C.~~**D.** General ~~Elections~~ elections. Except as provided in subsection ~~(D)~~ (E), ~~all~~ a registered ~~suppliers~~ supplier shall make an initial election, and a subsequent election each time a change occurs, before ~~the~~ beginning ~~of~~ to transport ~~of the~~ Arizona CBG or AZRBOB. ~~Registered suppliers~~ A registered supplier shall make the election with the Director on a form or in a format prescribed by the Director. The election shall state:

1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with Type 1 Arizona CBG, Type 2 Arizona CBG, or the PM alternative gasoline formulation requirements and, if the registered supplier will supply Arizona CBG or AZRBOB that complies with the PM alternative gasoline formulation requirements, whether the registered supplier will certify using the CARB Phase 2 or Phase 3 model; and
2. For each applicable fuel property or performance standard ~~for~~ in the election ~~in~~ under subsection ~~(C)~~ (D)(1), whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards. A registered supplier shall not elect to comply with average standards unless the registered supplier is in compliance with R20-2-760. ~~(A)~~ A registered supplier shall not elect to comply with Type 1 Arizona CBG average standards in Table 1, columns B and C, from September 16 through ~~November 1~~ October 31 and ~~April~~ February 1 through April 30.

~~D.~~ **E.** Winter elections. Beginning November ~~2~~ 1 through ~~March~~ January 31 of each year, a registered supplier shall ensure that all Arizona CBG or AZRBOB ~~shall comply~~ complies with Type 2 ~~gasoline~~ Arizona CBG requirements or the PM alternative gasoline formulation requirements under Table 2. ~~All~~ A registered ~~suppliers~~ supplier shall make an initial election, and a subsequent election each time a change occurs, before ~~the~~ beginning ~~of~~ to transport ~~of the~~ Arizona CBG or AZRBOB. ~~Registered suppliers~~ A registered supplier shall make the election with the Director on a form or in a format prescribed by the Director. The election shall state:

1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with the Type 2 ~~gasoline~~ Arizona CBG or the PM alternative gasoline formulation requirements; and
2. For each applicable fuel property, whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards.

~~E.~~ **F.** Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. ~~Registered suppliers~~ A registered supplier shall certify Arizona CBG or AZRBOB under R20-2-752 as meeting all requirements of the election made in subsection ~~(C)~~ ~~or~~ (D) or (E). For each fuel property, Type 1 ~~gasoline~~ Arizona CBG shall comply with the requirements in either column A~~,~~ or columns B through D of Table 1, and shall be certified using the Federal Complex Model, which is incorporated by reference in R20-2-702. For each fuel property, Type 2 ~~gasoline~~ Arizona CBG shall comply with the requirements of columns A and B (averaging option), or column C in Table 2. The PM alternative gasoline formulation shall meet the requirements of subsections ~~(F),~~ (G), ~~and~~ (H), and (I) and column A of Table 2. A registered supplier may certify Arizona CBG or AZRBOB using an equivalent test method that the Department approves using the criteria stated in R20-2-759.

~~F.~~**G.** Certification and ~~Use~~ use of Predictive Model for ~~Alternative~~ alternative PM ~~Gasoline Formulations~~ gasoline formulations.

1. Except as provided in subsections ~~(F)~~ (G)(4) and ~~(H)~~ (I), ~~the use of~~ a registered supplier shall use the PM ~~shall be~~ as provided in the Predictive Model Procedures.
2. A registered supplier shall certify a PM alternative gasoline formulation with the Director by either:
   a. Submitting to the Director a complete copy of the documentation provided to the executive officer of ~~the California Air Resources Board~~ CARB according to 13 California Code of Regulations, Section 2264 and subsection ~~(H)~~ (I); or
   b. Notifying the Director, on a form prescribed by or in a format acceptable to the Director, of:
      i. The PM alternative specifications that apply to the final blend, including for each specification whether it is a PM flat limit or a PM averaging limit; and
      ii. The numerical values for percent change in emissions for oxides of nitrogen and hydrocarbons determined in accordance with the Predictive Model Procedures.
3. ~~The~~ A registered supplier shall deliver the certification required under subsection (G)(2) to the Director before ~~the beginning of transport of~~ transporting the PM alternative gasoline formulation.
4. Restrictions for elections to sell or supply final blends as PM alternative gasoline formulations.
   a. A registered supplier ~~may~~ shall not make a new election to sell or supply from its production or import facility a

final blend of Arizona CBG as a PM alternative gasoline formulation if the registered supplier has ~~any~~ an outstanding ~~requirements~~ requirement under subsection (J) to provide offsets for fuel properties at the same production or import facility ~~under subsection (I)~~.

b. If a registered supplier elects to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more fuel properties, the registered supplier ~~may~~ shall not elect any other compliance option, including another PM alternative gasoline formulation, if an outstanding ~~requirements~~ requirement to provide offsets for fuel properties ~~exist~~ exists under the provisions of subsection ~~(I)~~ (J). This subsection ~~shall~~ does not preclude a registered supplier from electing another PM alternative gasoline formulation if:
   i. The PM flat limit for one or more fuel properties is changed to a PM averaging limit, or a single PM averaging limit for which there ~~are~~ is no outstanding ~~requirements~~ requirement to provide offsets~~,~~ is changed to a PM flat limit;
   ii. There are no changes to the PM alternative specifications for remaining fuel properties; and
   iii. The new PM alternative formulation meets the criteria in the Predictive Model Procedures.

c. ~~Once~~ If a registered supplier elects to sell or supply from ~~its~~ the registered supplier's production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier ~~may~~ shall not use a previously assigned designated alternative limit for a fuel property to provide offsets under subsection ~~(I)~~ (J).

d. If a registered supplier notifies the Director under subsection ~~(C) or~~ (D) or (E) that a final blend of Arizona CBG is sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of Arizona CBG or AZRBOB subsequently sold or supplied from that production or import facility are subject to the same PM alternative specifications until the registered supplier either:
   i. Designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications~~,~~ ; or
   ii. Elects, under subsection ~~(C) or~~ (D) or (E), a final blend at that facility subject to a flat limit compliance option or an averaging compliance option.

~~G.~~ **H.** Prohibited activities regarding PM alternative gasoline formulations.

~~1.~~ A registered supplier shall not sell, offer for sale, supply, or offer to supply from ~~its~~ the registered supplier's production or import facility Arizona CBG that is reported as a PM alternative gasoline formulation under R20-2-752 if any of the following occur:

~~a.~~ 1. The elected PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures~~;~~ ,

~~b.~~ 2. The registered supplier is prohibited by subsection ~~(F)~~ (G)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation~~;~~ ,

~~c.~~ 3. The gasoline fails to conform with any PM flat limit in the PM alternative specifications election~~;~~ , or

~~d.~~ 4. With respect to any fuel property for which the registered supplier elects a PM averaging limit~~,~~ :

   ~~i.~~ a. The gasoline exceeds the applicable PM average limit in Table 2, column B, and no designated alternative limit for the fuel property is established for the gasoline in accordance with subsection ~~(F)~~ (G)(2); or

   ~~ii.~~ b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection ~~(F)~~ (G)(2), and either ~~of the following occur:~~ the gasoline exceeds the designated alternative limit for the fuel property~~;~~ or ~~when~~ the designated alternative limit for the fuel property exceeds the PM averaging limit~~,~~ and the exceedance is not fully offset in accordance with subsection ~~(I)~~ (J).

~~H.~~ **I.** Oxygen content requirements for PM alternative gasoline formulations. ~~All alternative PM gasoline formulations from~~ A registered supplier shall ensure that from November 1 through ~~March~~ January 31, all alternative PM gasoline formulations ~~shall~~ comply with oxygen content requirements for the CBG-covered area. Regardless of the oxygen content, a registered supplier shall certify the final alternative PM gasoline formulation ~~shall be certified~~ using the PM with a minimum oxygen content of 2.0% by weight. A registered supplier may use the CARBOB Model as a substitute for the preparation of a fuel ethanol hand blend and use the fuel qualities calculated under the CARBOB Model for compliance and reporting purposes.

~~I.~~ **J.** Offsetting ~~Fuel Properties~~ fuel properties and ~~Performance Standards~~ performance standards. ~~Each~~ A registered supplier ~~who~~ that elects to comply with the averaging standards for any of the fuel properties or performance standards contained in Tables 1 ~~or~~ and 2, or the PM, shall, from a single production or import facility, complete physical transfer ~~from the same production or import facility~~ of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount by which the ~~gasoline~~ Arizona CBG or AZRBOB exceeds the averaging standard according to the following schedule:

1. ~~Registered suppliers electing~~ A registered supplier that elects to comply with the averaging standards contained in Table 2 or the PM shall offset each exceeded average standard within 90 days before or after ~~the~~ beginning ~~of~~ to transport ~~of~~ any final blend of Arizona CBG or AZRBOB from ~~a~~ the production or import facility;
2. ~~Registered suppliers electing~~ A registered supplier that elects to comply with the averaging standard for the VOC Emission Reduction Percentage in Table 1, column B, shall offset an exceedance of the ~~standards~~ standard that occurs from May 1 to September 15 ~~of each calendar year~~ during that same ~~time~~ period; and

3. ~~Registered suppliers electing~~ A registered supplier that elects to comply with the averaging standard for the NOx Emission Reduction Percentage contained in Table 1, column B, shall offset an exceedance of the ~~summer~~ standard that occurs from May 1 to September 15 ~~of each calendar year~~ during that same ~~time~~ period.

~~J.~~ **K.** Consequence of failure to comply with averages.

1. In addition to a penalty under R20-2-762, if any, ~~under R20-2-762,~~ a registered supplier ~~who~~ that fails to comply with ~~the requirements~~ a requirement of subsection ~~(I)~~ (J) shall meet the applicable per-gallon standards contained in Table 1, Table 2, or ~~for any~~ an alternative PM gasoline formulation, for a probationary period as follows:
   a. For a registered ~~suppliers electing~~ supplier that elects to comply with the standards contained in Table 1, the probationary period begins on the first day of the next ~~corresponding~~ averaging season and ends on the last day of that averaging season if the conditions of subsection (K)(2) are met;
   b. For a registered ~~suppliers electing~~ supplier that elects to comply with the standards contained in Table 2 or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives a notice from the Director, that the registered supplier did not comply with the requirements of subsection ~~(I)~~ (J). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period. The probationary period ~~shall be~~ ends 90 days after its beginning date.
2. A registered supplier ~~may~~ shall not produce or import Arizona CBG or AZRBOB under an averaging compliance election until:
   a. The registered supplier submits a compliance plan to the Director that includes:
      i. An implementation schedule for actions to correct noncompliance, and
      ii. Reporting requirements that document ~~the plan~~ implementation of the compliance plan~~;~~ ,
   b. The Director approves the plan~~;~~ ,
   c. The registered supplier implements the plan~~;~~ , and
   d. The registered supplier achieves compliance.
3. If a registered supplier fails to comply with the requirements of subsection ~~(I)~~ (J) within one year of the end of a probationary period under subsection ~~(J)~~ (K)(1), the registered supplier shall comply with applicable per-gallon standards for a subsequent probationary period of two years, or until the conditions in subsection ~~(J)~~ (K)(2) are satisfied, whichever is later.
   a. If a registered supplier elects ~~compliance~~ to comply with the Table 1 standards, the probationary period begins on the first day of the next ~~corresponding~~ averaging season.
   b. If a registered supplier elects ~~compliance~~ to comply with the Table 2 standards or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives notice from the Director, that the registered supplier did not comply with the requirements of subsection ~~(I)~~ (J). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period.
4. If a registered supplier fails to comply with the requirements of subsection ~~(I)~~ (J) within one year ~~of~~ after the end of a probationary period provided under subsection ~~(J)~~ (K)(3), the registered supplier shall permanently comply with applicable per-gallon standards.

~~K.~~ **L.** Effect of VOC survey failure. Each time ~~the CBG-covered area fails~~ a VOC survey conducted under R20-2-760 shows excess VOC emissions in the CBG-covered area, the VOC emissions performance reduction in R20-2-751(A)(8) and the minimum per-gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0~~%~~ percent, not to exceed the VOC percent emissions reduction percentage per-gallon standard in Table 1, column A.

~~L.~~ **M.** Effect of NOx survey failure. Each time ~~the CBG-covered area fails~~ a NOx survey conducted under R20-2-760 shows excess NOx emissions in the CBG-covered area, the NOx average emission reduction percentage applicable to the period of May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0~~%~~ percent.

~~M.~~ **N.** Subsequent survey compliance. If the minimum VOC ~~emission reduction percentage~~ or average NOx emissions reduction percentage has been made more stringent according to subsection ~~(K) or~~ (L) or (M) and ~~the CBG-covered area passes~~ all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction percentage in the CBG-covered area, the applicable VOC or NOx emissions adjusted reduction percentage ~~adjusted standard~~ shall be reduced by an absolute 1.0~~%~~ percent beginning in the year following the ~~second~~ year ~~of the~~ in which the second compliant survey is conducted. Each ~~standard~~ emissions reduction percentage adjusted under this subsection shall not be decreased below the following:

1. >~~25.0%~~ 27 percent for the VOC ~~Emission Reduction Percentage~~ emissions reduction percentage, May 1 - September 15, Table 1, column C; and
2. >6.8~~%~~ percent for the NOx ~~Emission Reduction Percentage~~ emissions reduction percentage, May 1 - September 15, Table 1, column B.

~~N.~~ **O.** Subsequent survey failures. If a VOC or NOx emissions reduction percentage is made less stringent under subsection ~~(M)~~ (N) and ~~the CBG-covered area fails~~ a subsequent VOC or NOx survey shows excess VOC or NOx emissions in the CBG-covered area:

1. For a VOC survey failure, the Federal Complex Model VOC emissions reduction percentage in R20-2-751(A)(8) and

the minimum per gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0~~%~~ percent, not to exceed the VOC percent emissions reduction percentage per gallon standard in Table 1, column A;

2. For a NOx survey failure, the NOx average emission reduction percentage applicable ~~to the period of~~ May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0~~%~~ percent; and
3. ~~The~~ If the VOC or NOx emission reduction percentage ~~for the performance standard~~ is increased under subsection (O)(1) or (O)(2), the VOC or NOx emission reduction percentage shall not be made less stringent regardless of the ~~results~~ result of subsequent surveys for ~~that performance standard~~ VOC or NOx emissions.

~~O.~~**P.** Effective date for adjusted standards. If a performance standard is adjusted by operation of ~~subsections (K),~~ subsection (L), (M), ~~or~~ (N), or (O), the effective date for the change ~~shall begin with~~ is the beginning of the next averaging season for which the standard is applicable.

Q. Subsections (A)(6)(a), (b), (c), and (f), (A)(7)(a)(i) and (ii), (A)(8), (B), (D)(2), (E), and (I) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

R20-2-752. General Requirements for Registered Suppliers

A. A registered supplier shall certify that each batch of Arizona CBG or AZRBOB transported for sale or use in the CBG-covered area meets the standards in this Article.

B. ~~The~~ A registered supplier shall ~~sign~~ make the certification on a form or in a format prescribed by the Director. The registered supplier shall include in the certification ~~shall include~~ information on ~~the~~ shipment volumes, fuel properties as determined under R20-2-759, and performance standards for each batch of Arizona CBG or AZRBOB. ~~For each batch transported, the~~ The registered supplier shall submit the certification to the Director on or before the 15th day of each month for ~~the~~ each batch of Arizona CBG or AZRBOB transported during the previous month.

C. Recordkeeping and records retention.

1. ~~Each~~ A registered supplier ~~who~~ that samples and analyzes a final blend or shipment of Arizona CBG or AZRBOB under this Section shall maintain, for five years from the date of each sampling, records of the following:
   a. Sample date;
   b. Identity of blend or product sampled;
   c. Container or other vessel sampled;
   d. The final blend or shipment volume; and
   e. The test results for sulfur, aromatic hydrocarbon, olefin, oxygen, RVP, and as applicable, T50, T90, E200, and E300 as determined under R20-2-759.
2. ~~All~~ If Arizona CBG or AZRBOB produced or imported by a registered supplier~~, that~~ is not tested and documented as required by this Section, the Director shall ~~be deemed~~ deem the Arizona CBG or AZRBOB to have a RVP, sulfur, aromatic hydrocarbon, olefin, oxygen, T50, and T90 ~~exceeding~~ that exceeds the standards specified in R20-2-751~~,~~ or ~~exceeding~~ the comparable PM averaging limits, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable ~~standards and~~ fuel property limits ~~for fuel properties~~ and performance standards.
3. A registered supplier shall provide to the Director any records maintained by the registered supplier under this ~~subsection~~ Section within 20 days of a written request from the Director. If a registered supplier fails to provide records for a blend or shipment of Arizona CBG or AZRBOB ~~under this Section~~, the Director shall deem the final blend or shipment of Arizona CBG or AZRBOB ~~shall be deemed supplied~~ in violation of R20-2-751, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable ~~standards and~~ fuel property limits ~~for fuel properties~~ and performance standards.

D. Notification requirement. A registered supplier shall notify the Director by ~~facsimile prior to the beginning of transport of~~ fax before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.

E. Quality Assurance and Quality Control (QA/QC) Program. A registered supplier shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the registered supplier's laboratory testing of Arizona CBG or AZRBOB. The registered supplier shall submit the QA/QC program ~~shall be submitted~~ to the Director for approval at least three months before ~~transport of~~ the registered supplier transports Arizona CBG or AZRBOB. The Director shall approve a QA/QC program only if the Director determines that the QA/QC program ensures that the registered supplier's laboratory testing procedures comply with R20-2-759 and the data generated by the registered supplier's laboratory are complete, accurate, and reproducible. If the registered supplier makes significant changes to the QA/QC program, the registered supplier shall resubmit the QA/QC program to the Director for review and approval. Within 30 days of receiving the changed QA/QC program, the Director shall determine whether the changed QA/QC program meets the original quality objectives. The Director shall approve the changed QA/QC program if it meets the quality objectives. Instead of developing a QA/QC program, a registered supplier may ~~opt to~~ comply with the independent testing requirements of subsection (F).

F. Independent testing.

1. A registered supplier of Arizona CBG or AZRBOB ~~who~~ that does not ~~comply with subsection (E)~~ develop a QA/QC program shall conduct a program of independent sample collection and ~~analyses~~ analysis for the Arizona CBG or AZRBOB produced or imported, that complies with one of the following:

a. Option 1. A registered supplier shall, for each batch of Arizona CBG or AZRBOB produced or imported, have an independent laboratory collect and analyze a representative sample from the batch using the methodology specified in R20-2-759 for compliance with each fuel property ~~or~~ and performance standard for which the Arizona CBG or AZRBOB is certified.

b. Option 2. A registered supplier shall have an independent testing program for all Arizona CBG or AZRBOB ~~produced~~ that the registered supplier produces or ~~imported~~ imports that consists of the following:

i. An independent laboratory shall collect a representative sample from each batch;

ii. The Director or designee shall identify up to 10% of the ~~total number of~~ samples collected under subsection (F)(1)(b)(i) for analysis; and

iii. The ~~designated~~ independent laboratory shall, for each sample identified by the Director or designee, analyze the sample using the methodology specified in R20-2-759 for compliance with each fuel property ~~or~~ and performance standard for which the ~~batch~~ Arizona CBG or AZRBOB is certified.

2. The Director or designee may request in writing a ~~portion~~ duplicate of the batch sample collected under subsection (F)(1)(a) or (F)(1)(b) for analysis by a laboratory selected by the Director or designee. The registered supplier shall submit a duplicate of the sample to the Director within 24 hours of the written request.

~~2.~~3. Designation of ~~Independent Laboratory~~ independent laboratory.

a. A registered supplier ~~who~~ that does not ~~comply with subsection (E)~~ develop a QA/QC program shall designate one independent laboratory for each production or import facility at which the registered supplier produces or imports Arizona CBG or AZRBOB ~~is produced or imported~~. The independent laboratory shall collect samples and perform analyses according to subsection (F).

b. A registered supplier shall identify the designated independent laboratory to the Director under the registration requirements of R20-2-750.

c. A laboratory is considered independent if:

i. The laboratory is not operated by a registered supplier or the registered supplier's subsidiary or employee;

ii. The laboratory does not have any interest in any registered supplier; and

iii. The registered supplier does not have any interest in the designated laboratory.

d. Notwithstanding the restrictions in ~~subsections~~ subsection ~~(F)(2)I(i) through (iii)~~ (F)(3)(c), the Director shall consider a laboratory independent if it is owned or operated by a ~~gasoline~~ pipeline ~~company~~ owned or operated by four or more ~~producers or importers~~ registered suppliers.

~~d.~~e. A registered supplier shall not use a laboratory that is debarred, suspended, or proposed for debarment according to the Government-wide Debarment and Suspension regulations, 40 CFR 32, or the Debarment, Suspension and Ineligibility provisions of the Federal Acquisition Regulations, 48 CFR ~~9(9.4)~~ 9.4.

~~3.~~ 4. A registered supplier shall ~~cause~~ ensure that its designated independent laboratory ~~to~~:

a. ~~Record~~ Records the following at the time the designated independent laboratory collects a representative sample from a batch of Arizona CBG or AZRBOB:

i. The producer's or importer's assigned batch number for the batch ~~being~~ sampled;

ii. The volume of the batch;~~-~~

iii. The identification number of the gasoline storage tank ~~or tanks~~ in which the batch is stored at the time the sample is collected;

iv. The date and time the batch became Arizona CBG or AZRBOB~~, and the date and time the sample is collected~~;

v. The date and time the sample is collected;

~~v.~~ vi. The grade of the batch (for example, unleaded premium, unleaded mid-grade, or unleaded); and

~~vi.~~ vii. For Arizona CBG or AZRBOB produced by computer-controlled in-line blending, the date and time the blending process began and the date and time the blending process ended, unless exempt under subsection (G);

b. ~~Retain~~ Retains each sample collected under this subsection for at least 45 days, ~~except~~ unless this time ~~may be~~ is extended by the Director for up to 180 days ~~upon request by the Director~~;

c. ~~Submit~~ Submits to the Director a quarterly report on the 15th day of January, April, July, and October of each year~~. The report shall include~~ that includes, for each sample of Arizona CBG or AZRBOB analyzed under subsection (F):

i. The results of the independent laboratory's analyses for each fuel property, and

ii. The information specified in subsection ~~(F)(3)(a)~~ (F)(4)(a) for each sample; and

d. ~~Supply~~ Supplies to the Director, upon request, a ~~portion~~ duplicate of the sample.

G. Exemptions to QA/QC and ~~Independent Laboratory Testing Requirements~~ independent laboratory testing requirements. A registered supplier ~~who~~ that produces or imports Arizona CBG or AZRBOB using computer-controlled in-line blending equipment and ~~is operating~~ operates under an exemption from EPA under 40 CFR 80.65(f)~~(4)~~ (iv), is exempt from the requirements of subsections (E) and (F), ~~provided that~~ if reports of the results of the independent audit program of the ~~refiner's~~ registered supplier's computer-controlled in-line blending operation, which are submitted to EPA under 40 CFR

80.65(f)~~(4)~~ (iv), are submitted to the Director by March 1 of each year.

H. Use of ~~Laboratory Analysis for Certification~~ laboratory analysis for certification of Arizona CBG and AZRBOB.

1. If both a registered supplier and an independent laboratory collect a sample from the same batch of Arizona CBG or AZRBOB and perform a laboratory analysis under subsection (F) to determine compliance of the sample with a fuel property, the registered supplier and independent laboratory shall use the same test methodology. ~~for the same batch for compliance with subsection (F), the~~ The results of the analysis conducted by the registered supplier shall be used for certification of the Arizona CBG or AZRBOB under subsection (B), unless the absolute value of the difference between the two ~~laboratory test~~ results is larger than one of the following:

	~~Fuel Property~~	~~Range~~
~~a.~~	~~Sulfur content~~	~~25 ppm by weight~~
~~b.~~	~~Aromatics~~	~~2.7% by volume~~
~~c.~~	~~Olefins~~	~~2.5% by volume~~
~~d.~~	~~Ethanol~~	~~0.4% by volume~~
~~e.~~	~~Methanol~~	~~0.2% by volume~~
~~f.~~	~~MTBE (and other methyl ethers)~~	~~0.6% by volume~~
~~g.~~	~~ETBE (and other ethyl ethers)~~	~~0.6% by volume~~
~~h.~~	~~TAME~~	~~0.6% by volume~~
~~i.~~	~~t-Butanol content~~	~~0.6% by volume~~
~~j.~~	~~RVP~~	~~0.3 psi~~
~~k.~~	~~50% distillation temperature~~	~~5° Fahrenheit~~
~~l.~~	~~90% distillation temperature~~	~~5° Fahrenheit~~
~~m.~~	~~E200~~	~~2.5% by volume~~
~~n.~~	~~E300~~	~~3.5% by volume~~
~~o.~~	~~API gravity~~	~~0.3° API~~

   a. Sulfur content: 25 ppm by weight;
   b. Aromatics: 2.7% by volume;
   c. Olefins: 2.5% by volume;
   d. Fuel ethanol: 0.4% by volume;
   e. RVP: 0.3 psi;
   f. 50% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results;
   g. 90% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results;
   h. E200: 2.5% by volume;
   i. E300: 3.5% by volume; or
   j. API gravity: 0.3° API.

2. If the absolute value of the ~~differences of~~ difference between the results of the analyses conducted by the registered supplier and independent laboratory is larger than one of the values specified in subsection (H)(1), the registered supplier shall use one of the following ~~laboratory testing results~~ for certification of the batch of Arizona CBG or AZRBOB under subsection (B):
   a. The larger of the two values for ~~the~~ each fuel property, except ~~that~~ the smaller of the two values shall be used for measures of oxygenates; or
   b. ~~The registered supplier shall have~~ Have ~~one additional~~ a second independent laboratory analyze the Arizona CBG or AZRBOB for ~~the~~ each fuel property. If the ~~laboratory~~ difference between the results obtained by the ~~additional~~ second independent laboratory and those obtained by the registered supplier ~~is~~ are within the range listed in ~~this~~ subsection (H)(1) ~~as compared to the results obtained by the registered supplier~~, the registered sup-

plier's ~~laboratory analysis~~ results shall be used for certifying the Arizona CBG or AZRBOB ~~certification~~ under subsection (B).

R20-2-753. General Requirements for Pipelines and Third-party Terminals

A. A pipeline or third-party terminal shall not accept Arizona CBG or AZRBOB for transport unless:
1. The Arizona CBG or AZRBOB is physically transferred from an importer, refiner, oxygenate blender, pipeline, or third-party terminal registered with the Department under R20-2-750; and
2. The registered supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the standards in R20-2-751(A) or (B), as applicable, without reproducibility or numerical rounding.

B. A pipeline or third-party terminal that transports Arizona CBG or AZRBOB shall collect a sample of each incoming batch. The pipeline or third-party terminal shall retain the sample for at least 30 days~~, except~~ unless this time ~~may be~~ is extended for an individual ~~samples~~ sample for up to 180 days ~~upon request~~ by the Director.

C. A pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of ~~not less than~~ at least one sample from one batch completing shipment ~~per~~ for each registered supplier ~~per~~ each day at each input location.

D. A pipeline shall provide the Director with a report summarizing the ~~laboratory~~ quality control testing results ~~required in~~ obtained under subsection (C) within 10 days of the end of each month. The report shall contain the quantity of Arizona CBG or AZRBOB, date tendered, whether the Arizona CBG or AZRBOB was transported by pipeline, present sample location, and laboratory analysis results.

E. If ~~any~~ a batch does not meet the standards in R20-2-751(A) or (B), as applicable, but is within reproducibility, the pipeline shall notify the Director by ~~facsimile~~ fax within 48 hours ~~with~~ of the batch volume and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results.

F. If ~~any~~ a batch does not meet the standards in R20-2-751(A) or (B), as applicable, including reproducibility, the pipeline or third-party terminal shall notify the Director by ~~facsimile~~ fax within 24 hours ~~with~~ of the batch quantity and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results. If the batch is in the pipeline's or third-party terminal's control, the pipeline or third-party terminal shall ~~stop the~~ prevent release of the batch from a distribution point until the batch is certified as meeting the standards in R20-2-751(A) or (B), as applicable.

G. ~~The~~ A pipeline or third-party terminal shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the pipeline's or third-party terminal's laboratory testing. The QA/QC program for a pipeline or third-party ~~terminals~~ terminal shall include a description of the laboratory testing protocol used to verify that Arizona CBG or AZRBOB transported to the CBG-covered area meets the standards in R20-2-751(A) or (B). ~~The~~ A pipeline or third-party terminal shall submit the QA/QC program to the Director for approval at least three months before ~~the first date~~ the pipeline or third-party terminal ~~transports~~ begins to transport Arizona CBG or AZRBOB. The Director shall approve a QA/QC program only if the Director determines that the QA/QC program ensures that the pipeline's or third-party terminal's laboratory testing produces data that are complete, accurate, and reproducible. If a pipeline or third-party terminal makes significant changes to the QA/QC program, the pipeline or third-party terminal shall resubmit the QA/QC program to the Director for review and approval. Within 30 days of receiving the changed QA/QC program, the Director shall determine whether the changed QA/QC program meets the quality objectives originally approved by the Department. The Director shall approve the changed QA/QC program if it meets the quality objectives.

H. A portion of a facility that a third-party terminal uses for production, import, or oxygenate blending is exempt from this Section, but the third-party terminal shall ~~be operated~~ operate the exempt portion of the facility in compliance with requirements for registered suppliers in R20-2-752 and oxygenate blenders in R20-2-755, as applicable.

I. A pipeline is not liable under R20-2-761 if it follows all of the procedures in this Section.

R20-2-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending

A. Application of Arizona CBG standards to AZRBOB.
1. Determining whether AZRBOB complies with Arizona CBG standards.
   a. If a registered supplier designates a final blend as AZRBOB and complies with the provisions of this Section, the fuel properties and performance standards of the ~~final blend~~ AZRBOB, for purposes of compliance with ~~Tables~~ Table ~~1 or~~ 2, are determined by adding the specified ~~type and~~ amount of ~~oxygenate~~ fuel ethanol to a representative sample of the AZRBOB and ~~determining the fuel properties and performance standards of~~ testing the resulting gasoline ~~according to~~ using the test methods in R20-2-759 or certifying the ARZBOB using the CARBOB model. If the registered supplier designates a range of amounts of ~~oxygenate or more than one oxygenate type~~ fuel ethanol to be added to the AZRBOB, the minimum designated amount of ~~the oxygenate having the smallest designated volume~~ fuel ethanol shall be added to the AZRBOB to determine the fuel properties and performance standards of the ~~final blend~~ resulting Arizona CBG. If a registered supplier does not comply with this subsection, the Department shall determine whether ~~compliance of~~ the ~~final blend~~ AZRBOB complies with applicable fuel ~~property~~ properties and performance standards, excluding requirements for RVP, ~~shall be determined~~ without adding ~~oxygenate~~ fuel ethanol to the AZRBOB.
   b. In determining whether AZRBOB complies with the Arizona CBG standards, the registered supplier shall ensure

that the fuel ethanol ~~oxygenate~~ added ~~shall be~~ to the representative sample under subsection (A)(1)(a) is representative of the ~~oxygenate~~ fuel ethanol the registered supplier reasonably expects will be subsequently added to the ~~final blend~~ AZRBOB.

2. Calculating the volume of ~~a final blend of~~ AZRBOB. If a registered supplier designates a final blend as AZRBOB and complies with this Section, the volume of ~~a final blend~~ AZRBOB is calculated for compliance purposes under R20-2-751 by adding the minimum ~~designated~~ amount of ~~the oxygenate having the smallest volume~~ fuel ethanol designated by the registered supplier. If a registered supplier fails to comply with this subsection, the Department shall calculate the volume of ~~the final blend~~ AZRBOB for purposes of compliance with applicable fuel ~~property~~ properties and performance standards ~~shall be calculated~~ without adding the amount of ~~oxygenate~~ fuel ethanol to the AZRBOB.

B. Restrictions on transferring AZRBOB.

1. A person shall not transfer ownership or custody of AZRBOB to any other person unless the transferee notifies the transferor in writing that:
   a. The transferee is a registered oxygenate blender and will add ~~oxygenate of~~ fuel ethanol in the ~~types and~~ amount (or within the range of amounts) designated in R20-2-757 before the AZRBOB is transferred from a final distribution facility, or
   b. The transferee will take all reasonably prudent steps necessary to ensure that the AZRBOB is transferred to a registered ~~oxygen~~ oxygenate blender ~~who~~ that adds the ~~type and~~ amount (or within the range of amounts) of ~~oxygenate~~ fuel ethanol designated in R20-2-757 to the AZRBOB before the AZRBOB is transferred from a final distribution facility.
2. A person shall not sell or supply ~~AZRBOB~~ Arizona CBG from a final distribution facility if the ~~type and~~ amount or range of amounts of ~~oxygenate~~ fuel ethanol designated in R20-2-757 ~~have~~ has not been added to the AZRBOB.

C. Restrictions on blending AZRBOB with other products. A person shall not combine ~~any~~ AZRBOB supplied from the facility at which ~~it~~ the AZRBOB is produced or imported with any other AZRBOB, gasoline, blendstock, or oxygenate, except for:

1. ~~Oxygenate of~~ Fuel ethanol in the ~~type and~~ amount (or within the range of amounts) specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility, or
2. Other AZRBOB for which the same ~~oxygenate type and~~ fuel ethanol amount (or range of amounts) is specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility.

D. Quality ~~Assurance Sampling~~ assurance sampling and ~~Testing~~ testing requirements for a registered supplier supplying AZRBOB from a production or import facility. A registered supplier supplying AZRBOB from a production or import facility shall use an independent third-party quality assurance sampling and testing program as described in subsection (E) or conduct a quality assurance sampling and testing program that meets the requirements of 40 CFR 80.69(a)(7), as it existed on July 1, 1996, except for the changes listed in subsections (D)(1) through (D)(3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328. The material incorporated includes no future editions or amendments.~~:~~

1. 40 CFR 80.69(a)(7). The word "RBOB" is changed to read "AZRBOB";
2. 40 CFR 80.69(a)(7). "...using the methodology specified in § 80.46..." is changed to read "...using the methodology specified in R20-2-759...~~;~~" ~~;~~ and
3. 40 CFR 80.69(a)(7)(ii). "(within the correlation ranges specified in § 80.65(e)(2)(i)]" is changed to read "(within the ranges of the applicable test methods)." ~~. 40 CFR 80.69(a)(7), as it existed on July 1, 1996, is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~

E. General requirements for an independent third-party quality assurance sampling and testing program. A registered supplier may contract with an independent third party that conducts a quality assurance sampling and testing program for one or more registered suppliers. The registered supplier shall ensure that the quality assurance sampling and testing program:

1. Is designed and conducted by a third party that is independent of the registered supplier. To be considered independent:
   a. The third party shall not be an employee of a registered supplier,
   b. The third party shall not have an obligation to or interest in any registered supplier, and
   c. The registered supplier shall not have an obligation to or interest in the third party;
2. Is conducted from November 1 through January 31 on all samples collected under the program design previously approved by the Director under subsection (G);
3. Involves sampling and testing that is representative of all Arizona CBG dispensed in the CBG-covered area;
4. Analyzes each sample for oxygenate according to the methodologies specified in R20-2-759;
5. Bases results on an analysis of each sample collected during the sampling period unless a specific sample does not comply with the applicable per gallon maximum or minimum standards for the fuel property being evaluated in addition to any reproducibility applicable to the fuel property;

6. Participates in a correlation program with the Director to ensure the validity of analysis results;
7. Does not provide advance notice, except as provided in subsection (F), of the date or location of any sampling;
8. Provides a duplicate of any sample, with information regarding where and the date on which the sample was collected, upon request of the Director, within 30 days after submitting the report required under subsection (E)(10);
9. Permits a Department official to monitor sample collection, transportation, storage, and analysis at any time; and
10. Prepares and submits a report to the Director within 30 days after the sampling is completed that includes the following information:
    a. Name of the person collecting the samples;
    b. Attestation by an officer of the third party that the sampling and testing was done according to the program plan approved by the Director under subsection (G) and the results are accurate;
    c. Identification of the registered supplier for whom the sampling and testing program was conducted if the sampling and testing program was conducted for only one registered supplier;
    d. Identification of the area from which the samples were collected;
    e. Address of each motor fuel dispensing site from which a sample was collected;
    f. Dates on which the samples were collected;
    g. Results of the analysis of the samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP, and the calculated VOC or NOx emissions reduction percentage, as applicable;
    h. Name and address of each laboratory at which the samples were analyzed;
    i. Description of the method used to select the motor fuel dispensing sites from which a sample was collected;
    j. Number of samples collected at each motor fuel dispensing site; and
    k. Justification for excluding a collected sample if one was excluded.

F. An independent third party that contracts with one or more registered suppliers to conduct a quality assurance sampling and testing program shall begin the sampling on the date selected by the Director. The Director shall inform the third party of the date selected at least 10 business days before sampling is to begin.

G. To obtain the Director's approval of an independent third-party quality assurance sampling and testing program plan, the person seeking the approval shall:
1. Submit the plan to the Director no later than January 1 to cover the sampling and testing period from November 1 through January 31 of each year, and
2. Have the plan signed by an officer of the third party that will conduct the sampling and testing program.

H. No later than September 1 of each year, a registered supplier that intends to meet the requirements in subsection (D) by contracting with an independent third party to conduct quality assurance sampling and testing from November 1 through January 31 shall enter into the contract and pay all of the money necessary to conduct the sampling and testing program. The registered supplier may pay the money necessary to conduct the sampling and testing program to the third party or to an escrow account with instructions to the escrow agent to release the money to the third party as the testing program is implemented. No later than September 15, the registered supplier shall submit to the Director a copy of the contract with the third party, proof that the money necessary to conduct the sampling and testing program has been paid, and, if applicable, a copy of the escrow agreement.

~~**E.**~~ **I.** Requirements for oxygenate blenders.
1. Requirement to add ~~oxygenate~~ fuel ethanol to AZRBOB. If an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender ~~has represented~~ represents that ~~oxygenate~~ fuel ethanol will be added to the AZRBOB, the oxygenate blender shall add fuel ethanol to the AZRBOB ~~oxygenate of~~ in the ~~types and~~ amount (or within the range of amounts) identified in the documentation accompanying the AZRBOB.
2. Additional requirements for oxygenate blending at terminals. An oxygenate blender ~~who~~ that makes ~~a final blend of~~ Arizona CBG by blending ~~an oxygenate~~ fuel ethanol with ~~any~~ AZRBOB in a motor fuel storage tank, other than a truck used ~~for delivering~~ to deliver motor fuel to ~~retail outlets or bulk purchaser-consumer facilities~~ a retail outlet or bulk-purchaser consumer facility, shall determine the oxygen content and volume of the Arizona CBG before shipping, by collecting and analyzing a representative sample of the Arizona CBG, using the methodology in R20-2-759.
3. Additional requirements for oxygenate blending in trucks. An oxygenate blender ~~who~~ that blends AZRBOB in a motor fuel delivery truck shall conduct quality assurance sampling and testing that meets the requirements in 40 CFR 80.69(e)(2), as it existed on July 1, 1996, except~~:~~ for the changes listed in subsections (I)(3)(a) through (I)(3)(c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328. The material incorporated includes no future editions or amendments.
    a. 40 CFR 80.69(e)(2). The word "RBOB" is changed to read "AZRBOB~~";~~ ;"
    b. 40 CFR 80.69(e)(2)(iv). "... using the testing methodology specified at § 80.46 ..." is changed to read "... using the testing methodology specified in R20-2-759...~~";~~ ;" and
    c. 40 CFR 80.69(e)(2)(v). "(within the ranges specified in § 80.70(b)(2)(I)~~,~~)" is changed to read "(within the ranges of the applicable test methods)~~".~~ ." ~~40 CFR 80.69(e)(2), as it existed on July 1, 1996, is incorporated by reference~~

~~and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~

4. Additional requirements for in-line oxygenate blending in pipelines using computer-controlled blending.
   a. An oxygenate blender ~~who~~ that produces Arizona CBG by blending ~~oxygenate~~ fuel ethanol with AZRBOB into a pipeline using computer-controlled in-line blending shall, for each batch of Arizona CBG produced:
      i. Obtain a flow proportional composite sample after the addition of ~~oxygenate~~ fuel ethanol and before combining the resulting Arizona CBG with any other Arizona CBG;
      ii. Determine the oxygen content of the Arizona CBG by analyzing the composite sample within 24 hours of blending using the methodology in R20-2-759; and
      iii. Determine the volume of the resulting Arizona CBG.
   b. If the test results for the Arizona CBG indicate that it does not contain the ~~specified type and~~ amount of ~~oxygenate~~ fuel ethanol specified by ~~within~~ the ranges of the applicable test methods, the oxygenate blender shall:
      i. Notify the pipeline to downgrade the Arizona CBG to conventional gasoline or transmix upon arrival in Arizona;
      ii. Begin an investigation to determine the cause of the noncompliance;
      iii. Collect ~~spot samples~~ a representative sample every two hours during each in-line blend of AZRBOB and ~~oxygenate~~ fuel ethanol, and analyze the samples ~~with~~ within 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
      iv. Notify the Director in writing within one business day that the Arizona CBG does not comply with the requirements of this Article.
   c. The oxygenate blender shall comply with ~~this~~ subsection (I)(4)(b)(iii) until the Director ~~approves~~ determines that the corrective action ~~taken under subsection (iii)~~ has remedied the noncompliance.
5. Recordkeeping and ~~Records Retention~~ records retention.
   a. An oxygenate blender shall maintain, for five years from the date of each sampling, records of the following:
      i. Sample date,
      ii. Identity of blend or product sampled,
      iii. Container or other vessel sampled,
      iv. ~~The~~ Volume of final blend or shipment ~~volume~~, ~~and~~
      v. ~~The oxygen~~ Oxygen content as determined under R20-2-759~~.~~, and
      vi. Results from all testing.
   b. The Director shall deem that Arizona CBG blended by an oxygenate blender ~~that is~~ and not tested and documented as required by this Section ~~shall be deemed to have~~ has an oxygen content ~~exceeding~~ that exceeds the standards specified in R20-2-751~~,~~ or ~~exceeding~~ exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the standards in R20-2-751.
   c. Within 20 days of the Director's written request, an oxygenate blender shall provide any records maintained by the oxygenate blender under ~~R20-2-755~~ this Section. If ~~an~~ the oxygenate blender fails to provide records requested for a blend or shipment of Arizona CBG ~~under this Section~~, the Director shall deem that the ~~final~~ blend or shipment of Arizona CBG ~~shall be deemed in violation of~~ violates R20-2-751~~,~~ or ~~deemed to exceed~~ exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the standards and limits under R20-2-751.
6. Notification requirement. An oxygenate blender shall notify the Director by ~~facsimile prior to the beginning of transport of~~ fax before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.
7. Quality ~~Assurance~~ assurance and ~~Quality Control~~ quality control (QA/QC) ~~Program~~ program. An oxygenate blender ~~conducting laboratory~~ that conducts sampling and ~~analysis~~ testing under subsection ~~(E)~~ (I) in the oxygenate blender's own laboratory shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the oxygenate blender's ~~laboratory~~ sampling and testing of Arizona CBG or AZRBOB. The oxygenate blender shall submit the QA/QC program to the Director for approval at least three months before ~~transport of~~ transporting Arizona CBG. The Director shall approve a QA/QC program only if the Director determines that the QA/QC program ensures that the oxygenate blender's sampling and testing produces data that are complete, accurate, and reproducible. Instead of developing a QA/QC program, an oxygenate blender may ~~opt to~~ comply with the independent testing requirements of R20-2-752(F), except that, for sampling and ~~analysis~~ testing conducted under subsection ~~(E)(3)~~ (I)(3), the minimum number of samples collected and ~~analyzed~~ tested by the independent laboratory shall be 10% of the number of samples required to be ~~analyzed~~ collected and tested under subsection ~~(E)(3)~~ (I).
8. An oxygenate blender that does not ~~conducting~~ conduct laboratory sampling and ~~analysis~~ testing required under subsection ~~(E)~~ (I) in its own laboratory shall designate an independent laboratory, as ~~required~~ described in R20-2-752(F), to conduct ~~all of~~ the ~~laboratory~~ sampling and ~~analysis~~ testing required under subsection ~~(E)~~ (I)(7).

9. Within 24 hours of the ~~Director~~ Director's or designee's written request, an oxygenate blender shall submit a ~~portion~~ duplicate of any sample collected under subsection ~~(E)(7) or (8)~~ (I)(7).

J. Subsection (A)(1)(a) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

R20-2-757. Product Transfer Documentation; Records Retention

A. If a person transfers custody or title to ~~any~~ Arizona CBG or AZRBOB, other than when Arizona CBG is sold or dispensed at a ~~service station~~ motor fuel dispensing site or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following:

1. ~~The name~~ Name and address of the transferor;
2. ~~The name~~ Name and address of the transferee;
3. ~~The volume~~ Volume of Arizona CBG or AZRBOB being transferred;
4. ~~The location~~ Location of the Arizona CBG or AZRBOB at the time of ~~the~~ transfer;
5. ~~The date~~ Date of the transfer;
6. Product transfer document number;
7. Identification of the gasoline as Arizona CBG or AZRBOB;
8. ~~The minimum~~ Minimum octane rating of the Arizona CBG or ARZBOB;
9. ~~The applicable Federal Complex Model VOC and NOx reduction percentage standards contained in R20-2-751(A) to which the Arizona CBG or AZRBOB conforms;~~
10. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through ~~March~~ January 31, the ~~type and~~ minimum quantity of ~~oxygenate~~ fuel ethanol contained in the Arizona CBG; and
11. 10.~~In the case of~~ If the product transferred is AZRBOB for which ~~oxygenate~~ fuel ethanol blending is intended:
    a. Identification of the fuel as AZRBOB~~,~~ and a statement that the "AZRBOB does not comply with the standards for Arizona CBG without the addition of ~~oxygenate";~~ fuel ethanol;"
    b. ~~The designation~~ Designation of the AZRBOB as suitable for blending with fuel ethanol~~:~~
        ~~i. Any oxygenate;~~
        ~~ii. Ether only; or~~
        ~~iii. A specified oxygenate type or types and amount or amounts~~;
    c. ~~The oxygenate type or types and~~ Fuel ethanol amount or range of amounts that the AZRBOB requires to meet the fuel properties or performance standards claimed by the registered supplier of the AZRBOB, and the applicable specifications for volume percent ~~oxygenate~~ fuel ethanol and weight percent oxygen content ~~specifications~~; and
    d. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless ~~it~~ the other AZRBOB has the same requirements for ~~oxygenate type or types and~~ fuel ethanol amount or range of amounts.

B. A registered supplier, third-party terminal, or pipeline may comply with subsection (A) by using standardized product codes on pipeline tickets if the codes are specified in a manual distributed by the pipeline to transferees of the Arizona CBG or AZRBOB, and the manual ~~sets forth~~ includes all required information for the Arizona CBG or AZRBOB.

C. Any transferee in subsection (A), other than a registered supplier, oxygenate blender, third-party terminal, pipeline, ~~service station~~ motor fuel dispensing site ~~operator~~, or fleet ~~owner~~ vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 24~~-month period~~ months ~~preceding~~ before the most recent transfer ~~or delivery~~. The transferee shall maintain product transfer ~~or delivery~~ documents for the 30~~-day period~~ days ~~preceding~~ before the most recent transfer ~~or delivery~~ at the business address listed on the product transfer document. The transferee may ~~retain~~ maintain all remaining product transfer ~~or delivery~~ documents for the preceding 24 months elsewhere ~~but shall make them available to the Director within two working days from the time of request by the Director or designee~~.

D. A ~~service station operator~~ motor fuel dispensing site or fleet ~~owner~~ vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG ~~delivered~~ transferred during the 12 months ~~preceding that shipment~~ before the most recent transfer. ~~The documentation~~ The motor fuel dispensing site or fleet vehicle fueling facility shall maintain product transfer documents for the three most recent ~~deliveries~~ transfers ~~shall be maintained~~ on the ~~service station or fleet owners'~~ premises. ~~A service station operator or fleet owner~~ The motor fuel dispensing site or fleet vehicle fueling facility may maintain ~~documentation~~ the remaining product transfer documents ~~for the remainder of all deliveries~~ for the ~~12-month period~~ preceding 12 months elsewhere ~~but shall make it available to the Director within two working days from the time of request by the Director~~.

E. A registered supplier, oxygenate blender, third-party terminal, or pipeline shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the ~~60-month period~~ ~~preceding~~ 60 months before the most recent transfer ~~or delivery~~. ~~Transfer or delivery~~ The transferee shall maintain product transfer documents ~~made during the 30-day period~~ for each shipment of Arizona CBG or AZRBOB transferred during the 30 days preceding the most recent transfer ~~or delivery shall be maintained~~ at the business address listed on the product transfer document. ~~Documents~~ The transferee may maintain all remaining product transfer documents ~~for the remainder of all transfers or deliveries~~ for the preceding 60 months elsewhere ~~shall be available within two working days from the time of request by the Director or designee~~.

F. When a person transfers custody or title of fuel ethanol that is intended for use as a blend component in AZRBOB or Arizona CBG, the person shall provide the transferee a document that prominently states that the fuel ethanol complies with the standards for fuel ethanol intended for use as a blend component in AZRBOB or Arizona CBG.

~~F.~~G. Upon request by the Director or designee, a person shall present product transfer documents to the Department within two working days of the request. Legible photocopies ~~shall be~~ of the product transfer documents are acceptable.

R20-2-758. ~~Adoption of Fuel Certification Models~~ Repealed

~~The following documents are incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

1. ~~The California Predictive Model (PM), California Air Resources Board's "California Procedures for Evaluating Alternative Specification for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995 (Predictive Model Procedures). A copy may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.~~
2. ~~The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~

R20-2-759. Testing Methodologies

A. ~~Except as provided in subsections (C) and (D), a person certifying Arizona CBG or AZRBOB as meeting standards under Table 1 shall test the fuel with the methods under 13 California Code of Regulations, Section 2263, incorporated by reference as of January 1, 1997 and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.~~ Except as provided in subsection (C), a registered supplier or importer certifying Arizona CBG or AZRBOB as meeting the requirements of this Article shall use one of the methods listed in Table A. A copy of the EPA- or CARB-approved ASTM methods may be obtained at: American Society for Testing and Materials, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959. A copy of the CARB methods may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.

B. ~~Except as provided in subsection I, a person certifying Arizona CBG or AZRBOB as meeting standards under Table 2 shall test the fuel with methods under 13 California Code of Regulations, Section 2263, as incorporated by reference in subsection (A).~~ An oxygenate blender or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure fuel ethanol in accordance with the oxygenate blender's or third-party terminal's approved QA/QC program or in accordance with one of the methods listed in Table A.

C. ~~A registered supplier, oxygenate blender, or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure oxygenate using ASTM D4815-94a procedures and RVP using ASTM D4814-99 standards. For Arizona CBG located in the CBG covered area, oxygenate shall be measured using ASTM D4815-94a, and RVP shall be measured using ASTM D5191-99. ASTM D4814-99, ASTM D4815-94a and ASTM D5191-99 are incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Copies may be obtained at American Society for Testing and Materials, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959.~~ Rather than using a method listed in Table A to certify Arizona CBG or AZRBOB, a registered supplier may use the CARBOB Model and use the fuel-quality measures calculated using the CARBOB Model for compliance and reporting purposes.

D. ~~Except as required in subsection I, a registered supplier of Arizona CBG or AZRBOB may certify Type 1 Arizona CBG produced or imported at any facility using the federal test methods contained in 40 CFR 80.46 (a) through (g), incorporated by reference as of July 1, 1996, provided these are the only test methods used by that registered supplier to certify Arizona CBG or AZRBOB at that facility. 40 CFR 80.46(a) through (g) is on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~ A test method that the Department determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The Department has determined that test methods approved by either the EPA or CARB are equivalent test methods. To determine whether a proposed test method is equivalent to those listed in Table A, the Department shall thoroughly review data from both the proposed and designated test methods and assess whether the accuracy and precision of the proposed method is equal to or better than the accuracy and precision of the designated method and whether there is significant bias between the two methods. The Department shall approve a proposed test method only if the

Department determines that the accuracy and precision of the proposed test method is equal to or better than the accuracy and precision of the designated method. A correlation equation may be required to align the two methods. If a correlation equation is required to align the two methods, the correlation equation becomes part of the equivalent method.

E. Subsections (C) and (D) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

Table A. Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB

Fuel Parameter	Units		EPA-approved Test Method	EPA-approved Reproducibility		CARB-approved Test Method	CARB-approved Reproducibility
Aromatics	V%		D 5769-98				
	V%		D 1319-02a[A]	1.65		D 5580-00	1.4
Benzene	V%		D 3606-99	0.21		D 5580-00	0.1409 (X) $^{1.133}$
Olefins	V%		D 1319-02a	0.32 (x)$^{0.5}$		D 6550-00	0.32 (X) $^{0.5;\ \text{Footnote 1}}$
Oxygenates	W%		D 5599-00	See test method		D 4815-99	See test method
	W%		D 4815-99[B]	See test method			
Vapor Pressure (Correlation Equation) Footnote 2	psi		D 5191-01	0.3		13 CCR Section 2297	0.21
Sulfur	wppm		D 2622-98			D 5453-93	0.2217 (x)$^{0.92}$ wppm
						D 2622-94 (modified)	10-30 wppm R=0.405 (x) > 30 wppm R =0.192 (x)
Distillation T50	deg F		D 86-01	See test method		D 86-99ae1	See test method
Distillation T90	deg F		D 86-01	See test method		D 86-99ae1	See test method

[A] A refinery or importer may determine aromatics content using ASTM D 1319-02a if the result is correlated to ASTM D 5769-98.

[B] A refinery or importer may determine oxygenate content using ASTM D 4815-99 if the result is correlated to ASTM D 5599-00.

Footnotes:

1. Replace the last sentence in ASTM D 6550-00 Section 1.1 with the following: "The application range is from 0.3 to 25 mass percent total olefin, as defined in Section 2263(b), Title 13, California Code of Regulations. If olefin concentrations are not detected, substitute one-half of the detection limit."

2. When determining RVP, the only correlation equation to be used is the CARB (RVP= (0.972 X Ptot) – 0.715).

R20-2-760. Compliance Surveys

A. A registered supplier ~~who~~ that elects to certify that Arizona CBG or AZRBOB meets ~~any~~ an averaging standard under R20-2-751 shall ~~conduct~~ ensure that compliance surveys are conducted in accordance with a compliance survey program plan approved by the Director. The Director shall approve a compliance survey program plan if it:

1. Consists of at least four VOC and NOx surveys ~~during the period~~ conducted at least one per month between May 1 through September 15 of each year; and
2. Complies with subsection ~~I~~ (J).

B. If a registered supplier fails to ~~conduct~~ ensure that an approved compliance survey program is conducted, the Director shall issue an order requiring ~~compliance~~ the registered supplier to comply with all applicable fuel property and performance standards on a per-gallon basis for ~~at least~~ six months~~, extending~~ or through the end of the survey period identified in subsection (A)(1)~~, and ending after the six-month period~~ whichever is longer. ~~The requirement for~~ Regardless of when a failure to survey occurs, the Director's order shall require compliance with per-gallon standards ~~applies~~ from the beginning of the survey period during which the failure to survey occurs~~, regardless of when the failure to survey occurs during that period~~.

C. General compliance survey requirements. A registered supplier shall ensure that a compliance survey conforms to the following:

1. ~~A survey shall consist~~ Consists of all samples that are collected under ~~the applicable~~ an approved survey ~~design~~ program plan during any consecutive ~~seven-day period~~ seven days and that are not excluded under subsection ~~I~~ (C)(4)~~.~~ ;
2. ~~A survey shall be~~ Is representative of all Arizona CBG being dispensed in the CBG-covered area as provided in subsection ~~(F).~~ (G);
3. ~~Each~~ Analyzes each sample included in ~~a~~ the compliance survey ~~shall be analyzed~~ for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and RVP according to the ~~methodologies specified~~ test methods in R20-2-759. RVP ~~shall be~~ is required to be analyzed ~~during the time period of~~ only from May 1 through September 15~~.~~ ;
4. ~~The~~ Bases the results of ~~each~~ the compliance survey ~~shall be based~~ upon ~~the results of the~~ an analysis of each sample collected during the course of the compliance survey, unless a sample does not comply with the applicable per gallon maximum or minimum ~~standards for the~~ fuel property standard being evaluated in addition to any reproducibility that applies to the fuel property standard~~.~~ ; and
5. ~~A survey sample that does not comply with R20-2-751, or that constitutes evidence of noncompliance with a standard or requirement under this Article, may be used by the Director in an enforcement action.~~
6. ~~Each~~ If a laboratory ~~that~~ analyzes the compliance survey samples~~,~~ ~~shall participate~~ the laboratory participates in a correlation program with the Director to ensure the validity of analysis results.

D. If the Director determines that a sample used in a compliance survey does not comply with R20-2-751 or another requirement under this Article, the Director shall take enforcement action against the registered supplier.

~~D.~~ E. ~~The results of each~~ A registered supplier shall comply with the following VOC and NOx compliance survey ~~shall be determined as follows~~ requirements:

1. For each compliance survey sample ~~from the survey~~, determine the VOC and NOx emissions reduction percentage ~~is determined~~ based upon the tested fuel properties for that sample using the ~~applicable~~ methodology for calculating VOC and NOx emissions reductions at 40 CFR 80.45, as incorporated by reference in ~~R20-2-758~~ R20-2-702;
2. The CBG-covered area fails ~~the~~ a VOC compliance survey if the VOC emissions reduction percentage average of all samples collected during ~~that~~ the compliance survey is less than the per-gallon standard for VOC emissions reduction percentage in Table 1, column A.
3. The CBG-covered area fails ~~the~~ a NOx compliance survey if the NOx emissions reduction percentage average of all samples collected during ~~that~~ the compliance survey is less than the per-gallon standard for NOx emissions reduction percentage in Table 1, column A.

~~E.~~ F. ~~The~~ A registered supplier shall determine the result ~~results~~ of ~~each~~ the series of NOx ~~survey series~~ compliance surveys conducted between May 1 and September 15 ~~shall be determined~~ as follows:

1. For each compliance survey sample ~~from a survey series~~, the NOx emissions reduction percentage is determined based upon the tested fuel properties for that sample using the ~~applicable~~ methodology for calculating NOx emissions reduction ~~under~~ at 40 CFR 80.45~~,~~ as incorporated by reference in ~~R20-2-758~~ R20-2-702; and
2. The CBG-covered area fails the NOx ~~survey series~~ series of compliance surveys conducted between May 1 and September 15 if the NOx emissions reduction percentage average for all compliance survey samples collected during that ~~survey series~~ time is less than the Federal Complex Model per-gallon standard for the NOx emissions reduction percentage in Table 1, column A.

~~F.~~ G. ~~Each survey program shall~~ General requirements for an independent surveyor conducting a compliance survey. A registered supplier may have the compliance surveys required by this Section conducted by an independent surveyor. The Director shall approve a compliance survey program conducted by an independent surveyor if the compliance survey program:

1. ~~Be~~ Is designed and conducted by a ~~person~~ surveyor that is independent of the registered supplier ~~(the surveyor)~~. To be considered independent:
   a. The surveyor shall not be an employee of any registered supplier~~;~~ ,
   b. The surveyor shall not have ~~any~~ an obligation to or interest in any registered supplier~~;~~ , and
   c. The registered supplier shall not have ~~any~~ an obligation to or interest in the surveyor~~.~~ ;
2. ~~Be designed to include~~ Includes enough samples to ensure that the average levels of oxygen, RVP, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95% confidence level, with error of less than 0.1 psi for RVP, 0.1% for oxygen (by weight), 0.5% for aromatic hydrocarbons (by volume), 0.5% for olefins (by volume), 5°F.

for T50 and T90, and 10 ~~ppm~~ wppm for sulfur;

3. ~~Require~~ Requires that the surveyor~~: a. Except as provided in subsection (G),~~ not ~~inform anyone, in~~ provide advance notice, except as provided in subsection (H), of the date or location of any survey sampling;

~~b.~~4. ~~Upon~~ Requires that the surveyor ~~request of the Director,~~ provide a duplicate of any sample taken during the survey, with information regarding the name and address of the facility from and the date on which the sample was taken, upon request of the Director, within 30 days following submission of the survey report required under subsection (G)(6)~~:~~;

~~i. To a location specified by the Director;~~

~~ii. Identified by the name and address of the facility where the sample was collected; and~~

~~iii. Showing the date of collection.~~

~~c.~~5. ~~Permit~~ Requires that the surveyor permit a Department official ~~at any time~~ to monitor ~~the conduct of the survey, including~~ sample collection, transportation, storage, and analysis at any time~~.~~ ;

~~4.~~ 6. ~~Require~~ Requires the surveyor to submit a report of each survey to the Director~~,~~ within 30 days ~~following completion of the survey, to the Director. The report shall include~~ after sampling for the survey is completed that includes the following information:

a. ~~The name~~ Name of the person conducting the survey;

b. ~~An attestation~~ Attestation by an officer of the ~~surveying company~~ surveyor that the ~~survey~~ sampling and testing was conducted according to the compliance survey program plan and the ~~survey~~ results are accurate;

c. ~~If~~ Identification of the registered supplier for whom the compliance survey was conducted if the compliance survey was conducted for only one registered supplier~~, the identification of that supplier~~;

d. ~~The identification~~ Identification of the area from which ~~gasoline~~ survey samples were selected;

e. ~~The dates~~ Dates on which the survey was conducted;

f. ~~The address~~ Address of each facility at which a ~~gasoline~~ sample was collected, and the date of collection;

g. ~~The results~~ Results of the ~~analyses~~ analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP, and the calculated VOC or NOx emissions reduction percentage, as applicable, for each survey conducted during the period identified in subsection (A)(1);

h. ~~The name~~ Name and address of each laboratory ~~where gasoline~~ at which samples were analyzed;

i. ~~A description~~ Description of the ~~methodology~~ method used to select the ~~locations for~~ facilities from which a sample ~~collection~~ was collected ~~and the numbers of samples collected~~;

j. Number of samples collected from each facility;

~~j.~~k. ~~For~~ Justification for excluding a collected sample ~~any samples that were excluded~~ from the survey, ~~a justification for the exclusion~~ if one was excluded; and

~~k.~~l. ~~The average~~ Average VOC and NOx emissions reduction percentage.

~~G.~~H. ~~Each survey shall be commenced~~ An independent surveyor shall begin each survey on a date selected by the Director. The Director shall notify the surveyor of the date selected at least 10 business days before the ~~beginning date of the~~ survey is to begin.

~~H.~~I. ~~The procedure for seeking Director~~ To obtain the Director's approval ~~for a~~ of a compliance survey program plan ~~is~~, the person seeking approval shall:

1. ~~The person seeking survey program plan approval shall submit~~ Submit the plan to the Director ~~for the Director's approval~~ no later than January 1 to cover the survey period of May 1 through ~~March 31~~ September 15 of each year; and
2. ~~The survey program~~ Have the plan ~~shall be~~ signed by a corporate officer of the registered supplier~~,~~ or ~~in the case of a comprehensive survey program plan,~~ by an officer of the ~~organization coordinating the survey program~~ independent surveyor.

~~I.~~J. No later than April 1 of each year, ~~the~~ a registered ~~supplier's contract with the surveyor~~ supplier that intends to meet the requirements in subsection (A) by contracting with an independent surveyor to ~~carry out~~ conduct the ~~entire~~ compliance survey plan for the next summer and winter season shall ~~be in effect,~~ enter into the contract and ~~the registered supplier shall~~ pay ~~an amount~~ all of the money necessary to ~~carry out the entire~~ conduct the compliance survey plan. ~~To the surveyor or~~ The registered supplier may pay the money necessary to conduct the compliance survey plan to the independent surveyor or to ~~place the money into~~ an escrow account with instructions to the escrow agent to ~~pay~~ release the money ~~over~~ to the independent surveyor ~~during the course of the conduct of~~ as the compliance survey plan is implemented. No later than April 15 ~~preceding the period in which a survey will be conducted~~, the registered supplier shall ~~give~~ submit to the Director a copy of the contract with the independent surveyor, proof that the money necessary to ~~carry out~~ conduct the compliance survey plan has ~~either~~ been paid ~~to the surveyor or placed into an escrow account~~, and, if ~~placed into an escrow account~~ applicable, a copy of the escrow agreement.

Table 1. Type 1 ~~Gasoline~~ Arizona CBG Standards
Table 1 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

	Non-averaging Option	**Averaging Option**		
	A	**B**	**C**	**D**
Performance Standard/Fuel Property**	**Per-Gallon (minimum)**	**Average**	**Minimum (per-gallon)**	**Maximum (per-gallon)**
VOC Emission Reduction (%) May 1 - Sept. 15	≥ 27.5	≥ 29.0	≥ 25.0	N/A
NOx Emission Reduction (%) May 1 - Sept. 15	≥ 5.5	≥ 6.8	N/A	N/A
NOx Emission Reduction (%) Sept. 16 - ~~Nov. 1~~ October 31 and ~~April~~ February 1 - April 30***	≥ 0.0	N/A	N/A	N/A
Oxygen content: fuel ethanol, (% by weight unless otherwise noted) Nov. ~~2~~ 1 - ~~March~~ January 31*** ~~April~~ February 1 - ~~Nov. 1~~ October 31	 N/A 0.0*	 N/A N/A	 N/A 0.0	 N/A ~~4.0~~ 3.7
Oxygen content: other than fuel ethanol, (% by weight) Nov. ~~2~~ 1 - ~~March~~ January 31*** ~~April~~ February 1 - ~~Nov. 1~~ October 31	 N/A 0.0	 N/A N/A	 N/A 0.0	 N/A ~~2.7~~****

* Maximum oxygen content ~~must~~ shall comply with the EPA oxygenate waiver requirements and with A.R.S. § 41-2122.
** Dates represent compliance dates for ~~service stations and fleet owners~~ the owner of a motor fuel dispensing site or a fleet vehicle fueling facility.
*** ~~Registered suppliers~~ A registered supplier shall certify all Arizona CBG as Type 2 ~~gasoline~~ Arizona CBG meeting the standards in Table 2 beginning November ~~2~~ 1 through ~~March~~ January 31.
**** As specified in A.R.S. § 41-2122.

Table 2. Type 2 ~~Gasoline~~ Arizona CBG Standards

Table 2 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

	Averaging Option		Non-averaging Option	
	A	B	C	
Fuel Property	**Maximum Standard (per gallon)**	**Averaging Standard***	**Flat Standard * (per gallon maximum)**	**Units of Standard**
Sulfur Content	80/30	30/15	40/20	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume
90% Distillation Temperature (T90)	330	290/295	300/305	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200/203	210/213	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0/35	22.0	25.0	% by volume
Oxygen content: fuel ethanol***** Nov. ~~2~~ 1 - ~~March~~ January 31 ~~April~~ February 1 - ~~Nov. 1~~ October 31 The maximum oxygen content EtOH year around	10% fuel ethanol** ~~2.7~~	-- --	10% fuel ethanol** ~~2.7~~**3.7	% by vol. % by weight
~~Oxygen content: other than ethanol**** Nov. 2 - March 31 April 1 - Nov. 1~~	~~3.5*** 2.7~~	~~-- --~~	~~3.5*** 2.7**~~	~~% by weight % by weight~~

* Instead of the standards in columns B and C, a registered supplier may ~~elect to~~ comply with the standards contained in column A, and R20-2-751(F), (G), and (H) for the use of the PM.

** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.

~~*** Non-ethanol oxygenate is allowed only if approved by the Director under A.R.S. § 41-2124(D). Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.~~

A registered supplier shall certify all Arizona CBG using fuel ethanol as the oxygenate beginning November ~~2~~ 1 through ~~March~~ January 31. Alternative ~~oxygenates~~ fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the Director under A.R.S. § 41-2124(D).

~~NOTE~~ NOTES: Dates represent compliance dates for ~~service stations and fleet owners~~ the owner of a motor fuel dispensing site or fleet vehicle fuel facility.

Standards shown in the form of x/y denote standards for CARB Phase 2/Phase 3 gasolines.